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Allen

Observations on Penitentiary
Discipline, Addressed to William
Roscoe



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OBSERVATIONS

ON

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Penitentiary Discipline,

ADDRESSED

TO WILLIAM ROSCOE, Esq.

OF

LIVERPOOL, ENGLAND.

By Stephen Allen

(Former Mayor of N.Y.)

NEW-YORK:

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of the same name

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OBSERVATIONS. &c.



To William Roscoe, Esq. Near Liverpool, England.

SIR,—I have received your Pamphlet entitled, “A Brief Statement of the causes which have led to the abandonment of the celebrated system of Penitentiary Discipline, in some of the United States of America,” and in acknowledging its receipt, I at the same time, tender you my thanks for the honour you have done me, by addressing your thoughts and views on this important subject, to me.

In attempting some brief remarks on the observations you have addressed to me, I shall endeavour to avoid every thing that may in any way offend; and I am truly sorry, if any of my observations on your former remarks, have tended to injure your feelings, or disturb for a moment, your serenity of mind; for I can assure you, with the greatest sincerity, that such was not my wish or intention; and the only object I had in view, was to show, that the inferences you had drawn from certain parts of our report, was not the true ones intended to be conveyed by us.

I beg to be understood therefore, in whatever I may say on this subject, as by no means doubting your motives, for I believe them to be both pure and disinterested, and I think it will be admitted by those who know me, that I can have no other motive in this, or any other public matter, but to arrive at the truth, whatever it may be, in order that the general good may be promoted, and not that private opinion or selfish views may be gratified.

You appear to fear, that "it is now probably, too late to reply to my observations with any hope of altering our decision." This apprehension of yours is entirely groundless; for we have no authority whatever, to decide **in** any of the cases to which you have alluded. My colleagues, with myself, were appointed for a special purpose, viz: to visit the State Prisons of the State of New-York, and to examine into all matters relating to the economy, government, and discipline of the prisons, &c. &c. This duty has been performed, and our report presented to the Legislature, and the only measure adopted by that body, in pursuance of that report, was to authorise the erection of a new prison at Mount-Pleasant, in the County of West-Chester, for the purpose of replacing the old one, now situated in the City of New-York, and which has lately been sold to the Corporation of said City. Your observations therefore, although they have not convinced me, that *your* system is the true one, may, nevertheless, prove as effectual as you may wish, for aught I know, in convincing the people of this State, and their representatives in the Legislature, that it is the legitimate system which ought to be followed.

Before I proceed further, however, I must be permitted to notice what I presume I am to consider the best apology you are able to offer for "interfering on this subject," and for making your attack upon the Report of the Commissioners: namely, that Mr. Hopkins having sent you a copy, you thought yourself called upon to express your opinion on its merits. Admitting the fact, that Mr. Hopkins sent you the report, of which I had no knowledge until you communicated it, would it not have been more decorous to have addressed your remarks to Mr. Hopkins individually, before you published them? The opinion of the Commissioners had

nothing to do with the plans of discipline which may be adopted in England, neither could these opinions have any influence out of the sphere in which they were intended to operate; for the report was only partially circulated in this country, there being no more of them printed than what is usual in Legislative documents intended for the information of its members, and therefore, but a very few copies could have reached England. You may possibly object to this reasoning, and reply, that the document being a public one, its errors required to be publicly exposed; now, if we admit this, which I am unprepared to do, I still think, Sir, I have a right to complain, when you undertake to impugn the motives of the Commissioners, and charge them with propagating sentiments and opinions at war with every feeling of humanity, and moral rectitude; or in your own words—that the plan we recommend “*is a deviation from the acknowledged principles of right and justice; a dereliction of the practical precepts of Christianity, and a violation of the best feelings of the human heart.*” And again. “*It may however, be doubted, whether the propositions now brought forward be not equal, if not more repugnant to the dictates of justice, than the infliction of capital punishment.*” In my former Letter to you, I have shown, as I think, to the satisfaction of every unprejudiced man, that the plan of discipline recommended by the Commissioners, is not what you have stated it to be; but one that is now in full operation, and which has been the means of effecting a more extensive reformation among the convicts, than the reformatory system has, or ever will effect, as I shall show hereafter.

You remark, with some degree of feeling, upon my observation, “It is pretty evident, from the whole course of your reasoning on this subject, that the view

you have taken of it is merely theoretical, and that you are entirely destitute of practical knowledge, and have not given the subject personal attention, but have only made it a matter of thought." You have not attempted to deny the fact, however, but reply, "that whatever is not just in theory, is vicious in practice." However true this may be, I think you must admit, that opinions are frequently formed, and plans digested in the mind, which experience have shewn to be impracticable; and the reformation of the inmates of our State Prisons, through the means you propose, is, in my humble opinion, one of this description. You need not be told, Sir, that nothing is more common, than for men to differ in their views on the same subject, and that the only test of correctness is the practical result of a measure. That the system of discipline I have contended for, has resulted beneficially, will hereafter be shown, by such proof, as in my opinion, will not be doubted; notwithstanding the discredit you have attempted to throw upon the evidence adduced by the respectable Society formed in the City of Boston, because that part of their report, which relates to the Auburn Prison, does not square with your pre-conceived views on the subject.

You have answered my question as to the rights of a convicted felon, with perfect correctness; the sentence to the State Prison, does not authorise the taking of his life, by either of the means you have mentioned, or by any other means; but it does, nevertheless, deprive him of the rights of a free man, and only leaves him, as you justly observe, such rights as he is not deprived of by a legal sentence, and its legal consequences. This is all I have ever contended for, as you will see by a reference to my Letter, page 1, where I say, "we contend for nothing more than a compliance with the sentence of the Law, both on the part of the convicts, as

well as their keepers." And again, at page 8,—“The truth is, that our whole object was, to enforce by reason and example, the necessity of fulfilling the sentence of the Law upon the wrong doer, and nothing more or less.” The sentence of the Law is imprisonment in the State Prison at *hard labour*, or in solitude, or both, at the discretion of the Court. Nothing is required of the convict inconsistent with his sentence, and although the question was proposed by me ; what are the natural or political rights of a convicted criminal ? and which has afforded you an opportunity to display your legal knowledge, and again to insinuate charges of cruelty and oppression against us, I can assure you, sir, that I had no idea of depriving these lamentable beings of any of the rights left them after conviction ; but I did intend it to be understood, as my opinion, that they had forfeited, by a criminal act, the more essential rights of a citizen, and had not the same claim upon our commiseration, that the honest and unfortunate part of our species have.

The duty of a convict, under the sentence of imprisonment and hard labour, is briefly, *to be silent, obey orders, and labour diligently*. Without a compliance with these indispensable requisites, the sentence of the court can never be carried into effect. How can a man labour hard, and at the same time be taught lessons of morality and religion ? It ought not to be expected, because it is unreasonable.

You quote a passage from “Buxton’s Enquiry” and apply it to us, under the erroneous impression you have imbibed, that the system we propose, is calculated to send men out of the prison worse than when they came in. How sir, shall a man who is taught lessons of industry, by diligent application to the business before him ; of sobriety, by the use of no other drink than the

pure element ; of decorum by saying no more than what is absolutely necessary ; of order and regularity, by the precision of all his movements ; of cleanliness, by the frequent washing and bathings enjoined ; of politeness and respect, by the restrictions on his behaviour to his superiors ; of education, by his attention at school on the Sunday ; and of morality and religion, by the advice, exhortation, and information of the Chaplain ; I say, shall he be taught all this, and still go away unimproved ?

You are unwilling to admit that I had no time to read your tract on penal jurisprudence, the perusal of which, as you say, could not have occupied more than a few hours. It would be no satisfaction to you I presume, were I to proceed to show that what I have stated was a fact, and that I could scarcely find leisure to read and answer your remarks on our report, consisting of fourteen pages, much more of your larger work of more than two hundred ; besides which, I had no reason to conclude that this volume of yours had any thing to do with the subject matter of our report, as it must have been written and in the hands of your printer, before the report could have reached England. Finding nothing in your remarks, therefore, which indicated the plan you would propose, in the room of the one proposed by us, *and which you have condemned*, I did say, and I think I had a right to say, "We are not furnished with the plan you would recommend, except what may be inferred from your remarks on that proposed by the Commissioners" There was certainly no injustice done you by this, for it was no more than reasonable, while you were condemning the project of another, that you should state your substitute.

When I said you have stated truly, "that the object of the report is the recommendation of a strict system of imprisonment, united with productive labour ;" and

your acknowledgement, "that this system would tend to the diminution of crimes more effectually than any that has as yet been proposed," (which words were quoted from your remarks.) I did not charge you "with singular inconsistency" as you have me, which I might have done however, with perfect propriety, inasmuch as the whole tenor of your after remarks, goes to condemn all that we had recommended, and consequently what you had previously admitted: and when I drew the conclusion from the general course of your remarks, "that you discarded all that part of our plan which goes upon the principle of close confinement and steady employment, and all that part which authorises punishments for disobedience and disorderly conduct, either by whipping or solitude;" it was upon the principle that you had so generally disapproved of what we had recommended; the essence of which was, close confinement and productive labour; and as to the reference you have given me to your tract on criminal jurisprudence, I had no reason to suppose, when writing to you, as I have before observed, that any thing connected with the subject in hand was to be found there; neither am I now able to observe, from what you have said, what is the particular punishment you would recommend for disobedience of orders, or malpractice in prison, by the convicts. It will be time enough for you to call upon me to produce from your remarks, an objection to solitary confinement by night, when I have charged the fact upon you; as yet I have not charged you with it, any further than what may be implied in what I have already stated, that your disapproval of what we recommended appeared to be general.

I can now state for your satisfaction, that I have carefully perused your book on criminal jurisprudence, and now have it before me. I find much to commend, both in the manner and the matter of your writings, and

have not the least hesitation, in awarding you all the credit you may desire, for the benevolent feeling you have exhibited, and the labour you have bestowed, for the purpose of enlightening your fellow men, and for your well meant endeavours to ameliorate the condition of the unfortunate criminals who now crowd your prisons. That I should differ with a gentleman of your known philanthropy, is to me a source of regret, and nothing but the imperative duty imposed upon every man, who is sensible that his feelings and motives have been misrepresented, would have induced me to have taken up the gauntlet which you have thought proper to offer me.

Having thus admitted the correctness of your intentions, and the purity of your motives, I must nevertheless inform you, that, in my opinion, the plan you propose, as a system of prison discipline, will only result in disappointment to its patrons, and expense and dissatisfaction to the public.

If I rightly understand your plan it is as follows:—

That every criminal on being convicted shall be imprisoned and put under penitentiary discipline.

All commitments to be for life or some indefinite period.

No person received, to be discharged until he is able to execute some art, trade or profession, by which he can provide for his own support.

The prison to be under the government of a Board of Directors, who are to have suitable salaries paid them.

Their duty to be as follows:—To superintend the conduct of the convicts. To provide them with constant work. To dispose of the produce of their labour. To maintain a regular and inflexible discipline among them. To attend to their religious and moral instruction. To treat them with attention and kindness, in order to

induce them to adopt a better course of life. To maintain an intercourse with them individually, and by advice, remonstrance and information, to induce them to improve.

The Directors having reason to believe that the culprit is reformed, they are to recommend him to the court for a pardon, who are to examine him, and according to *their* view of the subject, are either to recommend him to the executive for a pardon, or to send him back to the prison

This is the plan by which you propose to reform the community of hardened offenders, who make a business of criminal acts, and by their repeated outrage on community, bid defiance to all laws, both human and divine. I can assure you, sir, that whatever you may think to the contrary, no man would feel more gratified than myself, at the adoption of your plan, if the effects were to be what you anticipate; and should it ever be put in operation, either in my country, or in your own, you will not feel greater pleasure at its success, than I shall; but, believing as I do, that the plan will not produce the results you hope for, and having had some opportunity to examine and observe the general character of convicts, I am irresistibly led to the conclusion, that if any thing will induce them to desist from crime, it is the system of strict discipline, constant labour, total exclusion at night, and a non-intercourse, by prohibiting all conversation during the day. They must know what their duty is while in prison, and that they will be punished for a neglect or omission of it, or there is no safety to those entrusted with their safe-keeping, nor chance of reformation with themselves. But, I must proceed to state the objections which arise in my mind to the plan you propose, and I wish you to understand, that I object to your

plan as one unsuited for this country, and not that it may not answer for your own, and had you confined your opposition to the plan proposed by the Commissioners, as one that was improper for the government of the English prisons, you would never have heard from me on the subject ; but, as you have thought proper to take our institutions under your care, and have brought charges against us, which I deem unwarrantable, because we have thought for ourselves, and have recommended a system somewhat different from yours, you cannot in reason object to my showing that your recommendation is visionary, and unfit for the purposes intended.

First then, I object to the sentence for life, or an indefinite term. You have anticipated an objection, but only attempt to invalidate it, by denying the right to object to those holding certain opposing opinions to your own. I will not charge you with "singular inconsistency" in this, sir ; but, when you object with such severity, to the following recommendation of ours, namely : *that the internal government of the prison in conformity with the rules that may be adopted by the Inspectors and Commissioners, be placed in the hands of a responsible officer as agent and keeper*, and then recommend yourself, that the destiny of the prisoner, during his existence, shall depend upon the will of three Directors, who may keep him until he shall be gray-headed, or during life, depending entirely upon their view, whether he be a regenerated man or not, I will leave you to decide, on which side the consistency lays. Upon your principle too, the man who commits the slightest offence is to be incarcerated during the pleasure of your Directors, or until he shall learn some art, trade or profession, and although he may conduct himself with perfect propriety, and the

greatest length of his imprisonment, under the present law, would be a few months perhaps, he must stay in your penitentiary for years, or until he shall learn some one of the trades that may be carried on there. This is, as you say, "not to measure out a just degree of punishment due to a certain degree of guilt;" but, in my opinion, it is measuring to the offender a most unjust proportion of punishment, compared to the crime! You propose also, that the Directors shall each of them receive suitable salaries for their services.

In taking for granted, as you appear to do, that the Inspectors of our prisons receive stated salaries, you have been led into an error by the report you quote from the State Prison of Massachusetts. This is not the fact as it respects the prisons of this state; the Inspectors receive no salaries, or compensation for their services. The mere gratification therefore, of holding an office without emolument, appears to be a sufficient inducement for people to seek after it, and covet it, as might be evinced by a recital of the frequent changes which have occurred in the Directors and other officers of our State Prisons. If a particular party prevails, not only the offices of profit, but those to which the least degree of honor is attached, such as the Inspectors of our prisons, and consequently the officers who are appointed by them, must be filled by those espousing that particular side of the question. This is a serious evil, and has been attended with unfavourable consequences in the government of these institutions, and were our Inspectors salary officers, instead of what they are, the evil would be experienced in a much higher degree than what it now is. I am of opinion therefore, that the Inspectors ought not to be salary officers, but men who will undertake the trust for the honour of having it in their power to do good, and

when properly selected, the tenure of their appointment ought to be permanent ; for time and experience are necessary to enable men to gain the requisite knowledge to act with understanding and effect in the management of a community of persons such as usually fill our prisons. -It was with a view of correcting the injurious effects of these frequent changes, that induced the Commissioners to recommend, that both of our prisons should be placed under the supervisory controul of Commissioners, appointed for the purpose, and that they should receive their appointment direct from the Legislature, and hold their offices during the pleasure of that body.

The duties you intend imposing upon the Directors, are both arduous and complicated ; and the only way in which it can be performed, is to give to each a specific duty to attend to. Thus the person who superintends the conduct of the convicts, could not perform the duty of providing them with constant work, neither could the latter, provide the work, and dispose of the produce of their labour ; and neither of them could, in additton, attend to their religious and moral instruction. I infer from that part of your proposition respecting the labour of the convicts, and the sale of its produce, that your plan is, that the institution shall furnish the material to be worked up, and that the articles manufactured shall be sold for its benefit ; from the profits of which, the establishment is to be maintained. If this is your view, the result will be a total failure. The plan has been effectually tried at the State Prison located in this city, and was the consequence of ruinous losses, and of an increasing annual expense to the state. This arose from the necessity there was, in order to keep the men employed, to manufacture articles faster than the wants of the community called for them ; and for the purpose of replenishing the funds, and sustaining

the institution, large quantities of these manufactured articles were exposed at public sale, and in most instances, they scarcely brought the cost of the material of which they were composed. At the period I am speaking of, the provisions for the convicts were purchased by the agent of the prison, and the allowance dealt out to them according with a dietary established for the purpose. This too was found, by a comparison with the contract price of the ration furnished the United States Troops, to be an expensive method of feeding the convicts; and in 1817, the subject was brought before the Legislature, and a law was passed, directing that all the prisoners confined in the State Prison in the city of New-York, shall be supplied with provisions and hospital stores by contract, annually entered into with such person who may be willing to do it on the lowest terms, at a fixed price per diem for each person imprisoned; and further, that the agent shall sell all the manufactured articles now made and unsold, and shall not purchase any materials whatever to be wrought or worked up for sale, by the convicts, on account of the state; *but the said convicts shall hereafter be solely employed in manufacturing and making up such materials as may be brought to the said prison, by or for, individuals or companies, to whom such materials may belong, to be manufactured at fixed prices, for the labour bestowed upon them, to be paid by the owner of the goods, to the agent, for the use of the state.* From the time of passing this Law, to the present, there has been a gradual improvement in the finances of this prison, and they now pay nearly the whole of their expenses, from the proceeds of the labour of the convicts.

Another duty imposed upon your Directors, is, that they shall treat the convict with attention and kindness, and maintain an intercourse with them individually, and

by advice, remonstrance and information, induce them to improve.

It is perhaps entirely useless that I should repeat to you, that this plan never has and never will succeed. Not that I am opposed to its principles, for I can assure you, that it would give me as great pleasure to hear of, or see its success, as it would you, who are so confident of it.

In my attempt to answer your remark, "that the reformatory system had restored many useful members to society," I stated, that so far as my information extended, the number restored by the system, as formerly pursued, was comparatively few, and as an evidence of this, and in answer to your observation, "that the pardon of a criminal should entirely depend on his conduct in prison, and the manifestation of a resolution on his part to conduct himself correctly in future," I took the liberty of referring you to an examination of several convicts, who had been imprisoned for the second and third time, in order to show that the treatment they had received, was in no way conducive to their reformation.* Instead of rebutting this by such evidence as you might possess, in proof of your assertion, that *the system had reformed many*, you, as usual, make use of it to cast upon me an imputation entirely unmerited, by stating that I "endeavour to pervert those cases into a cause of accusation against the penitentiary system itself;" this I positively deny, sir, and consider this charge as emanating from a feeling of wounded pride, in not being able to produce evidence in support of your favourite theory, which has induced you to retort in a manner unbecoming, and to assert that for fact, which you cannot prove. I am as much a friend to the penitentiary system as you can be ;

* See Note at the end.

It is only the vicious practice, recommended by the theorists, that I am opposed to, because of my confident belief of its inutility and injurious consequences.

You have found it very convenient to quote largely from the reports of the prison in the city of New-York, and have referred me to the report of 1824, from which you select a few detached sentences, as applicable to your theory ; but when the report asserts, that "that cannot be called justice, which holds an uneven balance, and measures punishment without regard to crime," the inspectors have no sort of allusion to the manner of enforcing the discipline of the prison, as connected with the punishment of the convict, and producing the effects intended by that punishment—namely his reformation and the prevention of crime, which in differing from you, is the great front of our offending ; but, their object was, to show the inequality of the sentences of the courts, in many instances, (a consequence of the present construction of our criminal code,) and they proceed to state their opinion, in six several particulars ; "what are the defects in the criminal code," and the amendments that ought to be adopted in revising the law of the state.

There is much in this report to commend, and the only difference in opinion between me and the Inspectors of this prison is, that they have not enforced a system of discipline, such as would entitle them to the character of "saviours of the criminal ;" and such, as in our opinion, the prison, even with its present improper construction, would allow. The sentiment expressed by the Inspectors, that "*no man will act from an impulse received from council given by an enemy,*" is what I admit in its fullest extent, and it is the conviction of this truth, which has impelled me to differ from you, and the gentlemen who control the prison in this city.

The Directors, upon the plan you propose, are to maintain a regular and inflexible discipline in the prison; and the destiny of the convict, whether for life or a shorter period, is at their disposal. At the same time, they are to be the persons who are to *advise, inform, and remonstrate with him*, in order to his improvement.— They are, then, the persons who are to correct him for a breach of discipline, and at whose will he is kept in durance. The same sentiments appear also to have been entertained by the Inspectors of the prison in this city; namely, that by granting indulgences to the convicts, and by advising and remonstrating with them, they might reform them; and for this purpose they adopted your suggestion, (some time before you made it however,) such as, “man should eat their bread in the sweat of their face;” “He that will not work shall not eat;” “The way of the transgressor is hard;” “He that walketh uprightly walketh surely, but he that perverteth his ways shall be known,” &c. &c. These were “placed up in large letters” over every avenue to the prison. I was informed, however, by one of the Inspectors of that prison, that he could perceive no beneficial results whatever, from this attempt at reformation. At the New-York prison, the Inspectors are to judge the convict for a breach of discipline, and they are not only to judge, but to stand by and see it executed. The keepers, although not permitted to chastise for insolence or disobedience, are nevertheless the accusers; and it is upon their evidence that the convict is ordered to punishment. Now let me ask you, whether in either of these cases, be it under your theory, or the practice at the New-York prison, the officers of the institution are the proper instruments for gaining the confidence of the convicts, *for advising them, informing them and improving them?* Instances are rare, if any exist, of persons

convicted of crime expressing a reverence and love for the Judge who pronounced upon them the sentence of the law. They always believe it to be severe, if not unjust, and view the whole court as their enemies. As an evidence of this fact, I beg leave to quote the opinion of one, whose knowledge of the general disposition of the convicts, will not be doubted. It is the evidence of a convict himself, who was confined for several years in the New-York prison, and who published, in 1823, a History of his experience and information. He states that "The convicts agree in opinion but on very few subjects: they cordially unite in hating their *prosecutors, judges, jurors, their own council, and the officers of the law into whose custody they are committed*. During my unfortunate and lamentable acquaintance with them, and my ample opportunities of studying their characters and feelings, I never knew a single convict, who thoroughly approved of his accusation, trial, conviction, and imprisonment, on the score of morality. Debased and profligate in the extreme, the most salutary measure of virtue, receives from them, the most hearty and pointed execration." Under this view of the subject, can you believe that, the convict will act from an impulse received from the council of your Directors, who are to be the judges of his conduct; in fact, who are his goalers, judges and executioners; will they not consider the council as coming from an enemy, and not from a friend? That this will be the effect of the system, I have no doubt; and in proof of the operation of this system at the New-York prison, I need only refer you to the sketch I gave you of the criminal history of the twenty-one convicts confined in the cells at Auburn, who had been convicted and imprisoned, two, three, and some of them four, different times. Fifteen of these men had been the subjects of the discipline of

the New-York prison, for a term of years, at each sentence; and they had been removed, together with a number of others, to the Auburn prison, by order of the Governor of this state, for the purpose of trying the effects of solitary confinement. The experiment had completely failed, however, as the Commissioners have amply demonstrated in their report to the Legislature of the 15th of January, 1825.

The plan we propose for the reformation of this depraved part of our population, is very different; it is the plan, as I have frequently observed, that is now in successful operation at the prison at Auburn; and it is also in operation, so far as present circumstances will permit, at the new prison building at Mount-Pleasant, in the county of West-Chester, state of New-York.—We have been led to believe, that the legitimate duty of those having the custody of the prisoners is, to prevent escapes, to see that no improper, indecent, or injurious act is committed by the convicts or others, to provide for the prisoners what the law directs, and in fine, to carry into effect the laws of the state, and the rules and regulations of the institution. And that it is the proper duty of the Physician and resident Chaplain, to advise, remonstrate, and inform the convict. The first, as the healer of the body, if he is a man of a placid temper and a benevolent mind, and he ought to be selected with a view to these qualifications, may do much to enlighten the convict, and correct the evil propensities and corrupt views, which may have been the leading cause of his criminal acts. While he is stretched on a bed of sickness, and while his Physician is administering relief to his pains, the effects of admonition must not only be felt, but will make a lasting impression on his mind which will not easily be eradicated. He cannot help but view this as coming from a friend, who not

only labours to restore his body to health, but at the same time, attempts to improve his mind. The second, as the healer of the spirit of the convict, and as his spiritual adviser, must, naturally, have great influence over him. He is not only to preach to him, but to visit him when retired to his dormitory, after the labour of the day is over, and to console him under his affliction; to show him the evil of his ways, and by moral and religious precept, endeavour to turn him from a course of vice to that of virtue. By these means, and others that will readily suggest themselves to a person of proper feelings, he will gain the entire confidence of the convict; become the repository of his secrets; the redresser of his wrongs, if any have been done him; and his adviser and guide while an inmate of the prison; and when he leaves it, he will carry with him a mind much better informed than when he entered, in addition to the ability of gaining an honest living by the art or trade that has been taught him there. It will also be the duty of the Chaplain, to superintend and regulate the Sunday School, and to impart such occasional instruction at other times, in the most necessary branches of education, as time and circumstance will admit.

The gentleman who officiates as Chaplain at the Auburn prison, was employed and is partly paid by the Society for the promotion of Prison discipline of Boston. During the last year, and when a strong excitement was raised in the public feeling relative to the concerns and management of that prison, that gentleman felt himself called upon to lay before the public a statement of facts, within his own knowledge, on the subject. I will endeavour to give you the substance of his statement, from which you may draw such conclusions as you may deem proper, relative to the system in

operation, and which you have endeavoured to make appear, as cruel and vindictive.

He states, that "the object of his appointment was, that he might reside in the prison and have free intercourse with the convicts whenever it comported with the rules and regulations of the establishment. That he has been permitted to visit every part of the prison and workshops whenever he pleased, and was allowed free access to the convicts while in their cells and in the Hospital. His opportunities therefore, for observation and for obtaining information relative to the concerns and management of the institution was unlimited, and he endeavoured in some good degree to improve them. Ever since his residence here, he has noticed with increasing pleasure the perfect order and system which pervaded every department, and the care and watchfulness which had characterised the officers in the discharge of their respective duties, and the marked attention paid to the health and comfort of the convicts. They were comfortably and decently clad; their food was well prepared, wholesome and liberally furnished; they are well lodged and their cells properly warmed. The labour is by no means unreasonable or severe, nor had any of them complained that more was exacted than what was reasonable, or that his food was not good and plenty. The Hospital is well regulated and the sick well provided for. He can say with truth, that during his residence there (and he had been in all parts of the prison and at almost all hours of the day) he had never seen a convict struck by an officer of the prison, and he expresses his surprise, that such a number of men, congregated under such circumstances, and possessing such characters, should be governed with so much ease and with the infliction of so little punishment. That power has in no instance been abused, is

more than he has the means of affirming ; but, he has never witnessed such abuse. His intercourse with the convicts has been free and unrestrained, and he had conversed with a great portion of them individually, and they had almost universally assured him, *that so far as they conducted themselves well, they were well treated.* Those who were disposed to complain, he had always found to be the disobedient and refractory, who feel that all restraint is oppression and tyranny."

This is the disinterested opinion of a gentleman, whose opportunities for judging have been ample, and whose word will not be doubted by any, except it be such as are always ready to cavil at every thing which does not correspond with their, preconceived, ideas of the matter. In order, however, that every doubt might be removed, Mr. Curtis has attached to his statement, the certificates of three gentlemen, well known in this state as men of talents and integrity, and who are Professors in the Theological Seminary at Auburn ; one of these gentlemen had officiated in his clerical character, for several years, in the prison, and declares that on Sabbath days and at other times, he held frequent intercourse with the convicts, in their cells and in the hospital ; and that he has been conversant with the concerns of the prison generally and with its officers ; and that from his experience and observation, he most cheerfully and cordially concurred with the general views, opinions, and statements of facts, in relation to the management, discipline and concerns of said prison, by the Rev. J. Curtis ; for whose character, talents and worth, he had great respect. and in whose integrity, he had the most entire confidence.

The other gentlemen confirm the above, as to the character of Mr. Curtis, in whom they declare they have

the utmost confidence, and that he is a gentleman of intelligence and strict integrity.

You have rejected the testimony of the Rev. Mr. Dwight, the Secretary of the Society for Prison Discipline in Boston, on the subject of the Auburn prison ; and say that it is "a partial account of that institution, exhibiting its brightest and concealing its darkest features." But the high wrought rhapsody of the inspectors appears to meet your full credence ; because they have thought proper to talk of "increasing daily toils," "delivering the dead bodies to the surgeon for dissection," "galling chains," which we are well informed, never was made use of in that prison ; "uninterrupted solitude," the use of which has been exploded ever since our report to the Legislature in 1824, and a number of the like matters, all intended to answer a particular purpose.

I have already hinted at the means made use of here, to expel the incumbents in office, by raising an excitement in the public mind against them, for the purpose of filling their places with their opponents ; and this is not confined to offices of emolument only, but to those merely honorary also, especially if it embraces the power of appointing to office, which is the fact as it respects the Inspectors of our State Prisons. The Inspectors tell you, in the report you have referred me to, that they "directed the agent to take from visitors twenty-five cents each, not with a view to increase the receipts, *but to discourage the practice of visiting.*"

"Men judge from appearance, (say they) especially on the subject of others' happiness and misery, which is indeed the only guide, though often a fallacious one. It is emphatically so in determining the sufferings of our labouring convicts."

They then tell us, as in your quotation from the report, that people who have never visited a prison before,

coming to that at Auburn, and having conceived horrible ideas of its terrors and loathsomeness, and on viewing the cleanly and spacious interior, and the convicts clean and healthy, they leave the prison under the belief, and what is worse, *they extensively inculcate the belief*, that little suffering is experienced, and that the prisoners are better off, than when at liberty.

Now, it is pretty evident, I think, that the raising and circulating of these reports, gave the Inspectors some uneasiness, and in order to counteract any improper effect they might have, upon the minds of the Legislature, was the object of that part of the report you have quoted; the highly coloured description they have given of the convicts "brooding over their crimes and sufferings," therefore, must be taken with due allowance for the circumstance that called it forth. If the Inspectors have had to contend against the inculcation of the "belief, *that little suffering is experienced, and that the prisoners are better off than when at liberty;*" they have also had to contend, and that very recently, against a more imposing charge, and which has very probably been aggravated, if not induced, by the means they adopted to ward off the one just alluded to.

Early in 1826, a petition was presented to the Legislature, praying that an examination might be had of certain abuses practised by the officers of the Auburn State Prison; and stating, that some of the convicts had been cruelly treated, and that in some instances, even death had been the consequence, &c. On the 17th of April of the same year, an act was passed, directing Commissioners to visit the prison, and to make a full and impartial examination of all the matters complained of in said petition. The Commissioners met on the 21st of July, 18th 26, and proceeded with the investigation of the matters complained of. In January

1827, they made their report to the Legislature. This report consists of 88 printed pages, and was accompanied with the minutes of testimony given by 80 witnesses, which they had carefully examined, under oath ; altogether, forming a mass of information, such as has never before been collected on a like occasion.

You have probably been furnished with a copy of this report ; but, having no knowledge of the fact, I have deemed it proper, to make some extracts from the concluding parts of it. Before I proceed however, it seems necessary that I should state a fact for the purpose of elucidation. In April, 1825, Elam Lynds, the Agent and principal keeper of the Auburn prison, resigned his office, for the purpose of taking charge of the convicts engaged in erecting the new prison at Mount-Pleasant, and Richard Goodell was appointed by the Inspectors, to take the office vacated by the resignation of Mr. Lynds. Mr. Goodell continued in this office until January, 1826, when he departed this life, and Mr. G. Powers, the present Agent, was appointed to fill the office.

The Commissioners state, in the close of their examination, as follows :

“ We have gone through the list of abusive punishments, and the sum of the whole is, that in a little more than *four years* under Mr. Lynds’ agency, six cases of punishment have appeared to deserve particular attention ; of which we have reported *one as an accident, one as uncertain* from defect of testimony ; one as harsh, *but excusable from very peculiar circumstances* ; and two as abuses in a merely formal and legal, but not in a moral sense ; and not as being undeserved or unusually severe, and *one as entirely justifiable.*”

“ In about nine months during which Mr. Goodell was Agent, we find *twenty-one* cases of punishment of

a character to deserve investigation ; of which four do not appear to have been severe. About *fourteen were cases of severe punishment* ; and if the whole list stated by Dr. Tuthill be admitted, the number will be raised to *nineteen* ; and if the repeated punishments inflicted on such men as Mastison and Holmes be included, the number will be much greater. We have reported twelve in all to be abuses, either in a legal or moral sense."

"In Mr. Lynds' four years we have heard of but one attack of a prisoner upon a keeper."

"In Mr. Goodell's nine months, *six different men made those attacks*, and some of them more than once. He had also cases of feigned insanity, and punishments for pretended sickness, which was never, or seldom made in Mr. Lynds' time."

"The system of Mr. Goodell was an avowed and intentional departure from what he deemed the too great severity of Mr. Lynds. This certainly proceeded from feelings that do honor to his heart ; *but he seems to be too far infected by the feelings of those well-meaning men in Europe and America, who, without actual acquaintance with the character of criminals, have framed theories grounded upon the good qualities of convicted felons.* He trusted their honors, and sought by kindness shown, and confidence reposed, to inspire them with a willing and generous obedience ; and we have seen his reward."

"The cause of the increase of disorder, and of punishment, in Mr. Goodell's time, are very distinctly traced, by all the experienced keepers in the prison, to one source ; *the relaxation of discipline.* The condescension of the principal, made them insolent towards the Assistants. Concealed weapons were found, and

the Assistants consulted anxiously, respecting the safety of the prison, and of their own persons."

This is a practical comment on the "*reformatory system,*" or of *attention and kindness, and the constant and individual intercourse of the governors, advising, remonstrating, and reforming the convict*. It is an undeniable fact, tested by experience, that the convicts will not consider any of the persons who hold them in custody as their friends, and therefore, advice and remonstrance from that quarter, is useless and nugatory. There cannot be a stronger proof of the folly of attempting, by kindness and attention, to induce the convicts to conduct themselves well, or to adopt a better course of life, than what has been shown by the results of Mr. Goodell's administration. The comparison of offences and punishments, between his time, of *nine months*, and that of Lynds' of *four years*, plainly shows that the system I am contending for, is not only the most effectual and salutary, but that it is the most humane and benevolent. It not only tends to inculcate habits of industry and strict attention to the business in hand, but to concentrate the thoughts of the subject, and bring them within the narrow compass of his own breast. If he has a spark of that reverence for Deity, which few are entirely bereft of, and of which he will frequently be reminded by his friend and adviser, the Chaplain, his reflections must naturally produce an inward conviction, of the folly of that course, which has brought him to his then condition, and lead him to form resolutions, not only to conduct himself in conformity with the rules of the establishment, but to live an orderly and industrious life when he shall again be permitted to mingle with the world. Besides this moral effect of the system, it is important also, as it respects

the lives of the officers of the establishment, as well as that of the convict. How often do we hear of insurrections and bloodshed in the prisons of other states? The convicts in the prison at Philadelphia, have frequently rushed upon their keepers, and were not quelled until the shedding of blood. In New-Jersey the prison was once actually wrested from its officers. Insurrections have broken out in the prisons of Maryland, Virginia, and within my own knowledge, there has been several insurrections in the prison in this City; once, nearly the whole of one wing of the prison was burnt down, by an incendiary convict; and more than once, have the guard on the walls of the prison, been compelled to fire on the men in the yard, who were then, in a state of insurrection. Nothing of the kind has occurred at the prison at Auburn, neither can it occur there, or any where else under the same discipline; for there is no room allowed for the beginnings of mischief, as the least indication of a breach of order is nipped in the bud, and the necessity of punishment is, in a great measure entirely prevented. I have not the least doubt, had I the means of comparing the whippings on the bare back, which has been inflicted at the New-York prison, with that at Auburn, that the former would be two to one of the latter.

You have been pleased to state, in answer to my question; "what should be done with a robust and hardened culprit, who resolutely puts his keepers at defiance, &c." that "when the offender is no longer under the influence of reason, he is to be treated as a person insane, who is no longer answerable for his own conduct; that he is an object of compassion rather than punishment, and that he is more likely to be restored by lenity and forbearance, than by the discipline of thirty-nine lashes, well laid on."

The treatment you have here recommended, would certainly, be very proper for a person really insane, who ought to "be coerced and restrained from doing injury, either to himself or others;" but it was not insanity that induced the act I have alluded to, it was the malignity of a bravado, who set at defiance the punishment of a bread and water diet, and the solitude of a cell; and the treatment you have recommended, of "lenity and forbearance," would only tend to encourage him in outrage, instead of restoring him to reason. Of this, however, you will never be convinced, until the experiment has been made of your lenient system, in your own country; for here, the views of my countrymen are too enlightened on the subject, ever to induce them to make the attempt, further than it has already been made.

Having no wish to extend these remarks further than what may be absolutely necessary, or quoting proofs from a work in your possession, I take the liberty to refer you, for cases of abusive conduct, by the convicts in one of our prisons, to pages 15 to 19 inclusive, of our report to the Legislature of January, 1825.

You notice a quotation I made from your remarks, asserting, "*that the plan proposed by the Commissioners, discourages all attempts for the reformation of the offender;*" and that I had denied the fact. As a justification of your assertion, however, you state, "I have only repeated in other words the sentiments of the Commissioners themselves, who have expressly asserted that they consider reformation, as to any practicable purpose, wholly out of the question; or, at most, as applicable only to *offenders who are young in years, or in criminality.*" I am not willing to admit, sir, that the above quotation from our report, will bear you out in the construction you have given it. The idea of

“discouraging *all attempts* for the reformation of offenders,” is not to be found in any thing we have said or written on the penitentiary system; neither does the quotation you have made, inculcate it; for the only fair conclusion to be drawn from it is, that the reformation of old offenders, as to any practicable purpose, was, in the opinion of the Commissioners, wholly out of the question; but to offenders who are young in years, or in criminality, reformation was applicable and might be expected.

I should suppose, sir, after the incontestible evidence we have adduced, of the re-commitments for third and fourth offences, and the fact of the irreclaimable character of these offenders, as proved by the publications in your own country, as well as this, that you would be induced to believe that the reformation of those who had grown old in crime, was scarcely to be expected.

In my last respects, which has been the means of bringing you out again, in opposition to the report of the Commissioners, I stated, that the receipt of convicts at the New-York prison in 1825, was 155; and that 14 of them had been committed to prison for *second* and *third* offences. The receipts for 1826, was 141; and 24 of them was brought there, some for the *second* some for the *third*, and some for the *fourth* time. The receipts at the Auburn prison for 1825, was 136; and only two of them was committed for a second offence. In 1826, the receipts was 133, and there was *four* committed for the second time, and these, it was believed, had before been confined in some other prison. This not only shows the results of the discipline at the two prisons, but demonstrates the fact, that the reformation of the hardened offender, as to any practicable purpose, was pretty nearly, if not altogether, out of the question.

I observe, that great dependence is placed by you,

for your facts, upon the reports and statements, of the Inspectors of the prison in this City ; and although you have charged me with an " attempt to throw discredit on the reports of the Inspectors" of our prisons, I can assure you, that I have a high respect for them as gentlemen of character and respectability ; and the freedom with which we have spoke of the institutions under their controul, arose from a sense of duty to the public, and not from any feeling of disrespect to these gentlemen, for I have ever considered my duty to the public of much higher consideration, than the friendship or favour of any individual, or number of individuals. The report you have referred me to, abounds in high sounding phrases, and rhetorical expressions, but it is one thing to talk, as the Inspectors do, about " producing the well-being of the criminal," and the " extending the hand of friendship to him, to guide the misguided wanderer, enlightening his mind, and directing his eyes to the observance of good laws, &c." and another to carry these fine sayings into effect. If this has been done in any number of instances, it has not been shown, to my knowledge, at least ; and I have strong doubts, whether it can be effected in any instance, except by the discipline we have recommended. Under this " improved system of prison discipline," as you are pleased ironically to call it, much may be effected, both for the safety of the community, and the reformation of the convicts, particularly " to offenders who are young in years or in criminality." As a farther proof of the good effects, which are developing themselves, under the improved system, I beg leave to refer you to the last report of the Inspectors of the Auburn prison. The present Agent of that prison, Mr. Powers, had adopted measures, by writing to gentlemen residing in the vicinity of convicts who had been

discharged, in order to ascertain the effects produced upon their lives and conduct, by the operation of the discipline of the prison. He states, that accounts have been received from 79, of this description, and their names, with an abstract of the information relative to each, is annexed to the report. From which it appears, that the conduct of 52 had been *decidedly moral and good*, since their release from prison; that eight had been considerably improved, and were less vicious than formerly; that the conduct of 16 was profligate and bad, and that three of the 79 were not sufficiently known by the persons inquired of, to authorise an opinion of their conduct and character.*

It is worthy of note however, that it does not appear that any of the convicts thus improved by the discipline of the prison, were in on a second conviction; and I repeat with increased confidence therefore, *that however desirable it may be to reform a confirmed villain, it is, to say the least of it, a FORLORN HOPE.*

The following sentence, as a quotation from our report, is paraded in staring *italics*, as a proof of our dereliction from all that is humane on the subject of the treatment of convicted felons. "*That the State cannot and ought not to undertake, at the public expence, the moral reformation of criminals.*" You have omitted the latter part of the sentence however, which is as follows, "But we cordially admit, that such reformation is most desirable, while from experience we know, that it is most unlikely." Our reasons, why the State ought not to undertake the moral reformation of criminals, will be found at page 15 of our report.

According to your views, the Penitentiary ought to be a school for the tuition of morality, and at the same time of "productive labour, that will enable the pri-

* See Appendix.

soners to provide for their own maintenance without any expence to the community." These, according to my view of the subject, are principles, decidedly opposed to each other. You cannot undertake the moral and religious instruction of the criminal and at the same time make his work profitable ; because, he cannot be instructed and labour at the same time. Instruction is communicated either by reading or orally, and in either case, time is required ; and the time spent in reading or hearing a lecture, cannot at the same time be employed at labour. As for the prisoners providing for their own maintenance, without expence to the State, and at the same time instructing them in religion and morality to any beneficial extent, it is all chimerical and vain. The only prison within our knowledge, that has paid the whole expence of the establishment, is that at New-Hampshire, and there the materials worked cost nothing, as the stone is found in abundance, and only requires the labour of the convict to shape it into proper form for building. The number of prisoners too, at that prison, is small, not exceeding 60, and every body knows, who knows any thing about the profits of labour, that a moderate number of men, in a single establishment, will earn more in proportion, than where they are more numerous.

Although instruction in morality, and profitable labour at the same instant, are opposed to each other, when carried to the extent you would seem to aim at, I am far from believing, that they are entirely irreconcilable ; for, according to the plan we propose, a reasonable regard is paid to both. The convict is made to labour steadily through the day, but he has the evening of each day, and the whole of the Sabbath for instruction, either by reading his Bible, hearing a sermon, conversing with the Chaplain, or mentally reflect-

ing on his condition, and the criminal course he has pursued, and which has caused his sufferings.

However proper it may be, under the laws and constitution of your country, to establish schools of morality and religion in your prisons, it would be deemed here, an infringement of equal rights. In this state, no establishment for instruction in morals or religion, is supported at the public charge; institutions for these purposes are sustained by individual contributions almost altogether, except the aid extended by the Legislature to our common schools, for the instruction of indigent children. There is therefore, no connection here, between Church and State, and no class of our citizens are instructed, either in morality or religion, except at their own expence.

The simple idea, intended to be communicated by the Commissioners was, therefore, that the State ought not undertake the moral reformation of criminals, because it would be extending a privilege to convicts, not enjoyed by the honest and virtuous part of the community; because, in a constitutional point of view, it might be deemed illegal, and because the expence to the public, by the withdrawal of the prisoners from their labour, in order that they might attend to their studies, and receive instruction, would be materially increased by the operation.

I apprised you, in my letter of May, 1826, "that two of the Commissioners were mere practical men, who make no pretensions whatever to literary acquirements, and also, that some of the opinions, apart from those in which we stated there was a difference, are not the sentiments of all of us." There are others, that ought to have been elucidated by the reasons which brought us to the conclusion, and the one I have attempted to explain above, is one of that description.

It would occupy too much space, and at the same time prove uninteresting, were I to descend to particulars as to the forming of our report. The difficulty in combining our several views into one whole ; the manner of expression used in conveying our ideas, and the objections made by our literary friend, to the grammatical purity of our language ; all, more or less, tending to lay the work open to criticism.

The remainder of your book, appears to be devoted to the proof of two facts ; first, that "the evils which have attended the penitentiary system, have been occasioned by the want of room," and not by the laxness of discipline ; and second, to show the bad effects and inutility of solitary confinement.

The subject of solitary confinement, might be dismissed by me with a single remark ; for the Commissioners have not recommended the measure, a majority of them being decidedly opposed to it, except as a matter of discipline, to coerce the turbulent and ungovernable ; and since the unfavourable result of the experiment was exposed and made manifest by the report of the Commissioners, there has not, within my knowledge, been a sentence to solitude by the Courts of this State, and those that were in the cells at Auburn, have been released, and much better disposed of, by being sent to the work in the shops.

The foregoing brief statement would, perhaps, be sufficient, were it not that you appear to be unwilling to credit my assertions, or those of the respectable Secretary of the Prison Discipline Society of Boston. Thus, you take up the report of the Inspectors of the Auburn prison for 1822, more than two years anterior to our report, and from that, state the number in solitude at *seventy-seven*, from which you leave the public to draw the conclusion that this is

the number now in solitude, and that this number will be increased instead of diminished. Then by a construction of your own coining (for we deny that the language or the sentiment is that of the report) you say, "the rest perform their *automaton evolutions and daily tasks* under the immediate fear of the whip." And you add, "This is, I apprehend, a much more faithful picture of the prison at Auburn, than that which either you, or the managers of the Society at Boston, have favoured us with; in which I find no mention of solitary cells; of persons confined who were anxious to work; of diseases aggravated upon those who were confined when under the symptoms of them, &c. *of all this neither you nor the Managers of the Boston Society have afforded us a single hint*" All this, sir, I am extremely sorry to say it, has no foundation in truth.

In the first place, by a reference to our report, page 34, you will see that we have stated the number in solitude at Auburn to be *thirty-six*. At the same time we gave a circumstantial and detailed statement of the effects of solitary confinement upon their constitutions and general health; that it was injurious; attended with excessive weakness and debility; affections of the lungs; rheumatic pains; numbness and swelling of the limbs; loss of flesh and appetite, and disturbed sleep. That they generally declared, they would prefer the hardest labour and the coarsest food, to their present condition; and that two of them begged they might have work in their cells in order to make the time pass off less irksome, (see our report page 35.) When Mr. Dwight visited this prison in 1826, there were no convicts in solitary confinement; for, as I have before stated, the practice was understood to have been discontinued, immediately after the exposure of the matter, by our report; and this it is hoped, will account

for the omission, you thought you had discovered in the report of the Boston Society. I will barely remark in conclusion, on this part of the subject, that you are equally mistaken about the "*automaton evolutions and daily tasks*," as no task is, or ever was exacted at the Auburn prison ; the convict is only required to work moderately, but steadily through the day.

Before I proceed further, I beg leave to remark, that I do not intend to deny, but on the contrary affirm, that one of the greatest evils in the construction of most of our prisons is, the want of separate rooms for lodging each prisoner by himself at night ; and my only object is to show, that other evils exist susceptible of improvement ; and that, one of the greatest magnitude is, a total disregard of that wholesome and energetic discipline, so essential for effecting the results in view by the establishment of penitentiaries.

You have named Thomas Eddy of New-York, and Robert Vaux of Philadelphia, as friends to your plan, although, as it will hereafter appear, you and the last named gentleman, are much at variance on one subject, to wit, solitary confinement. With Mr. Vaux, I have no acquaintance, except by his writings ; and from them and other sources of information, I learn that he is a man of extensive benevolence, and that he has spent much of his time and substance in the cause of humanity and other good works. With Mr. Eddy however, I am well acquainted, and there is no man of the present day, who has done more to encourage measures for alleviating the condition of the poor ; to establish eleemosynary institutions in this City for their benefit ; to prevent the growth of pauperism among us, and to effect the universal education of the children of indigent parents, than what Thomas Eddy has done ; and no person can be more willing and ready, to acknow-

ledge the public worth of these gentlemen than I am ; but, candour compels me to declare, if they believe the system of discipline you have recommended, will be productive of the results you so fondly anticipate, that they, as well as yourself, will be wofully disappointed. I have some reason to believe however, that these gentlemen do not, like you, attribute the whole of the evils of the system to the want of room, for I find that Mr. Vaux gives other reasons, besides the one you have quoted, to which he attributes the failure of the experiment.

“ The mode of governing the Penitentiary, (says he) has undergone so many changes since its establishment, and the responsibility has been so much extended and divided, as to render it almost impossible to effect certain objects indispensable to the prosperity of the establishment.” He then proceeds to state other reasons for the failure of the system ; but, in my opinion, the most cogent cause of failure may be found in the extending and dividing the responsibility of those having the controul of the institution, as alluded to by Mr. Vaux in the foregoing quotation.

The evils arising from the frequent change of officers, and the division of the responsibility, are pointed out by the Commissioners in their report, on several occasions, particularly at page 20 and 21 ; their recommendation is, “ that both prisons should be placed under the general administration of Commissioners, to be appointed by the Legislature ; for the following reasons and objects, viz. To produce uniformity in discipline, that the improvements and advantages of each prison may be introduced into the other ; to withdraw the government of the prisons from the influence of local interests, and from the jealousies and feuds produced by real or supposed cases of favoritism, and to give

the utmost possible permanence and stability to the administration of prison discipline." The bad effects of this divided responsibility must have been clear to the view of Mr. Vaux, as a matter requiring correction; for he recommends, that, "upon the principal keepers must devolve the responsibility of giving full and lasting effect to the grand experiment." "Those officers should be a chief manager and matron, qualified as well by *decision and firmness of mind*, mixed with gentleness, as by good education, and sound religious character." This is precisely the character recommended by the Commissioners, though in other words, for they say, "the principal keeper must be a man of *firmness, discretion, and vigilance*, and he ought to be the *responsible* person in all matters relative to the conduct and safe-keeping of the prisoners."

There appears to be a conflicting opinion too, as I before observed, between you and Mr. Vaux, on the subject of solitary confinement; he thinks, that this valuable part of the system, *solitary confinement and hard labour*, "has often been improperly dispensed with, to the prejudice of the convicts, as the Legislature never empowered those who govern the prisons to diminish the penalties of the law." In several other parts of his work, he speaks of solitary confinement as the most effectual punishment for the prevention of crime, and to those who object to it as "cruel in the extreme," he answers, "that punishment is intended to be what its name implies." It appears to me, however, had Mr. Vaux read that part of our report relative to this subject, by which it is made manifest, (as the result of our examination of the convicts confined in solitude in 1824 at Auburn will show,) that there was no evidence to convince us, that those who had undergone the punishment of solitude, were in any respect reform-

ed by the operation, although the punishment was admitted on all hands to be both severe and irksome. On the contrary, it did appear, if any judgment might be formed by comparing the length of time that those were out of prison, after their discharge, who had been kept at labour in the shops, and under the discipline of the prison, with those who had undergone the punishment of solitude in the cells, and had returned under a second sentence, that the punishment by labour, with the discipline of the prison, was much more effectual in retarding the commission of crime, than the total exclusion of the prisoner.

Mr. Vaux also attributes the failure of the system, to the introduction of such branches of industry, as would yield the largest profit, *which induced a relaxation of the discipline*. To the frequent exercise of the pardoning power, at the suggestion of the inspectors; to the common intercourse of the prisoners, and the certainty of a pardon to those who were condemned to suffer the greatest length of punishment. These are the principal reasons, in addition to the smallness of the prison, which in the opinion of Mr. Vaux, have been the cause of failure in the Philadelphia penitentiary.

The plan for the Penitentiary building, erecting in the city of Philadelphia, is, as I am informed, on the radiating or diverging principle. Eleven acres of ground, we are told, have been enclosed, with a wall of thirty feet in height, and within this immense enclosure, the prison is to be erected, calculated to accommodate three hundred persons.* The rooms, for they cannot be called cells, are to be sufficiently large to admit the convicts who occupy them, to be employed at some kind of

* Letter from one of the Commissioners for building the prison, to the Society for the Improvement of Prison Discipline, in England.

labour, and this is called "*solitary confinement with hard labour.*" It is worthy of note, however, that there are but few of the convicts, on being sent to the penitentiary, who are artists or mechanics, and therefore require constant instruction in the branches pursued at the institution, in order to their labour being useful or profitable; and how then are these three hundred men to be instructed, each in a separate apartment, unless it is intended to employ nearly as many keepers, who are masters of the business carried on, as there are convicts to be instructed? I have not had the pleasure of examining this structure, however, and the only information I have, is derived from the verbal communication of others, and if this information be correct, then am I under great apprehensions, that the whole scheme will prove a failure, at least so far as the reformation of the criminal, or the revenues of the establishment, are concerned.

The plan adopted in this State, is upon a different principle altogether. The building now erecting at Mount-Pleasant, covers about three fourths of an acre, exclusive of the yard. It will be, when completed, about 48 feet in width, and 480 in length, on a straight line. The outer walls are 3 feet thick. Between the outer walls and the cells, there is a hall of 9 feet in the clear. Thus, the cells form a prison by themselves, and may therefore, be described as a prison within a prison. The cells are each three feet six inches wide, eight feet long, and seven feet high, all in the clear. The first tier of 200 cells, or 100 cells on each front, is on the ground floor. The other three tiers, one above the other, are approached by flights of steps, to a gallery, on which they open, and will form altogether, when completed, four tiers, containing 100 cells on each front, or 800 in the whole. There will be other buildings on each wing to accommodate the Keeper, the

guard, the necessary apparatus for cooking, and convenient rooms for a Chapel and Hospital.

The shops for working will be arranged in the yard, as at Auburn, and in such a manner as to give the Keepers a complete command of their men. With a prison thus constructed, and a discipline such as we have recommended, there can be no doubt, but that the results will be as favourable, as we have any reason to expect, making due allowance for the general character of those upon whom the system is intended to operate.

With a view of showing what has been the opinion of some of our most respectable and intelligent citizens, as to the early operation, and the cause of failure of the penitentiary system in this country, I will trouble you with a few extracts from the letters of these gentlemen, wrote some five or six years since.

The Hon. Joseph Hopkinson, in a letter to the society for the prevention of pauperism, (see a report published in 1822) says,—“From the first experiment of the system in Pennsylvania, I have feared, that leaving one extreme, we should pass to another, inadequate to produce the proper and salutary effect intended—*the safety of society*. The experience of thirty years has confirmed, in my mind, these apprehensions, and satisfied me that we have vibrated too far on the side of *lenity*, and that some change is necessary for security against the perpetration of crimes.” “Has the penitentiary system failed to answer the ends of its institution; and if so, to what is the failure to be attributed? I think it has failed in some important particulars; it has certainly the merit of humanity, but it has failed either to reform the convicts, or prevent crimes. We all remember that the original friends and advocates of the system, *entertained high hopes of effecting the reformation of offend-*

ers, by its mildness and discipline. I presume this hope is now abandoned, as experience has proved it to be visionary. Of the thousands who have fallen under the penitentiary treatment, how many have been reformed? Hypocrites and pretenders to reform, have been innumerable; who have played their tricks upon credulous inspectors; obtained their liberty, and returned to their old vocation. Another cause of failure may be found in *the excess of lenity and indulgence shewn to convicts*, in the manner of the execution of the sentence of the law; making their condition in sickness and in health, more tolerable and comfortable than nine tenths of the honest labouring poor. The least pretence of sickness is an excuse from labour; and the work done by a convict is, at no time, much more than half of what a common labourer would perform.

“A third cause of failure, at least in Pennsylvania, is the large and unnecessary power given to Inspectors. The Inspectors are generally men of high respectability; but their humanity, and sometimes their caprice, render them liable to very gross impositions, by the artifice of those with whom they have to deal. They are thus too frequently led to interfere with the strict and due execution of the law; sometimes by particular favour to individuals, but most of all by their recommendations to pardon, *founded merely on the apparent or assumed repentance of the criminal, or what is called his good behaviour in jail.*”

You will perceive sir, from the foregoing extracts, that I am not alone in the opinion, that the reformatory plan, or the system of attention, kindness, and forbearance, has failed, and will fail, wherever, or whenever it is put in operation. Mr. Hopkinson tells us, that his fears of its failure has been fully realized; that although it is based on humanity, it has nevertheless failed,

either to reform the criminal, or prevent a repetition of crime ; that hypocrites and pretenders have been innumerable, who have imposed upon the credulity of Inspectors ; have obtained their liberty, and shortly after returned to their old vocation. All this he attributes to *the excess of lenity and indulgence shown to the convicts*, and the extended power given the Inspectors to interfere with the execution of the sentence, by relaxing the discipline and showing particular favours to those who are said to behave well, &c. In another part of his letter, he accounts for the increase of crime, previous to 1790, the date when the system was introduced in Pennsylvania, on the score of the disbanding of the revolutionary army, and the poverty of the country. And for their diminution after that period, to the adoption of the federal constitution, and the wars in Europe, which brought to this country a large accession of wealth and business, and not to the operation of the penitentiary, as you have supposed.

Another gentleman, William Rawle, Esq. states, " That the system has not yet, with us, fully succeeded, in practice, is not denied. A sincere reformation of the offender has seldom been produced, and even if it exists is seldom believed."

A letter from M. Sheldon, Esq. the Keeper of the Connecticut prison states, that " The effect of imprisonment on morals and manners, as far as has come within the knowledge of the overseers, has been good. In several instances those who have suffered the punishment of Newgate imprisonment, for their crimes, have turned to a better course of life, and by their regular conduct and conversation, have evinced a reformation, and become industrious and useful citizens."

This prison was formed from the excavation of the copper mines in Simsbury, Connecticut. It is entirely

under ground, about 100 feet long, and varying in width from 10 to 50 feet. Here the convicts are lodged at night, and in the day, they are kept at labour in workshops above ground ; and, under the watchful eye of their keepers and guard, are subjected to a strict course of discipline. The consequence of this discipline, together with the construction of the prison, has been the means of reforming many who have been doomed to its punishment ; and as a further proof of the good effects of the system pursued there, it has been observed, that it is a rare occurrence for a person once imprisoned, to be returned on a second offence. In corroboration of this fact, I beg leave to quote from the " Interior View of the New-York Prison" by a convict, the following : He says, " There are many convicts in this prison who have been confined in a similar prison, in the eastern and southern states. Some of them within the last few years, have served out and been pardoned from several lengthy sentences, in Charleston, Windsor, Trenton, *Philadelphia*, Baltimore, and Richmond prisons ; but it is a singular fact, that during three years of close and curious observation, I never knew but one convict in this prison, who was generally recognized as an ex-incumbent, of the mines of Connecticut."

The rules of this prison are precise, and strictly enforced ; for a violation of them by the convicts, they may be punished by constant confinement in the caverns, by a reduction of their allowance of provisions, or by whipping, not exceeding ten stripes. These mines were constituted a state prison in 1790, and has, perhaps, answered the purposes of a penitentiary, more effectually than any other similar establishment in this country, except the recent establishment at Auburn. The following is extracted from a letter written by the Hon. James Gold.

“It is confessedly most desirable, that the sanctions of criminal law should be made to operate as a means of reforming offenders. Whether such a system may be practicable, or not, is to be ultimately ascertained by the results of experiment, if at all. And whether the experiment has or has not been fully and fairly made already, I am ill qualified to judge. I am very apprehensive, however, that it never can be rendered successful to any considerable extent. Among convicts, the average number of subjects, upon whom the ordinary and proper motives of reformation would be likely to exert any salutary and permanent influence, will always, I suspect, be comparatively very small. I have not known an instance in which it could be said with certainty, or with reasonable confidence, that reformation had been produced by any punishment, severe or mild, and the impediments to success in such a plan for reforming offenders, are in my view, so numerous and so formidable, that I entertain but little hope of its proving effectual. Indeed, however revolting to a humane mind the conclusion may and must be, I am constrained to say, that the present penitentiary system must, I fear, at no distant period, be abandoned, and a severer criminal code adopted in its stead.”

These are the opinions of a gentleman of high attainments, and great respectability, and although they are at war with all our views, they are nevertheless entitled to due consideration. Mr. Gold's letter was wrote in October, 1820, when the old system was in operation in all the then penitentiaries in the United States, and the results, up to that time, had been so unfavourable, that it is not to be wondered at, if he, and many others, were in despair as to its beneficial effects. But now, that the improved system recommended by the Commissioners, has had a fair trial at the Auburn

prison, and the results, as heretofore shown, has proved so salutary, not only in the reformation of the offender, but in preventing the repetition of crime. I have every reason to believe, that were Mr. Gold now to give his opinion, it would be in favour of a continuation, and not an abandonment of our penitentiaries.

D. Raymond, Esq. of Baltimore, observes, "The ends, or object of the penitentiary system of punishment, I understand to be the prevention of crimes and the reformation of criminals. There can be but little doubt, that the system has utterly failed, both to prevent crimes and to reform criminals. Of this every penitentiary in the country affords lamentable proof. A penitentiary will never answer the objects of its establishment, until it is made a place of real punishment to those who are sentenced to confinement in it, and it is but a mockery of justice, to shut up those criminals in penitentiaries, for whom they have no terrors, and who in reality enjoy as much happiness while undergoing this pretended punishment, as they are accustomed to enjoy, when they are at large in the world."

William Newbold of New-Jersey, observes, "The penitentiary system has failed to answer the ends of its institution, and this failure may be attributed, both to a defect in the legal provisions, *and to the internal police of the establishment.*"

I will trouble you with but one proof more, although I might add many; and that is derived from a person whose evidence ought to be conclusive on the subject. It is contained in a letter, dated, Virginia Penitentiary, 11th month, 14th, 1820, from Samuel P. Parsons, then an officer of that establishment. He enforces the necessity of making our penitentiaries places "to punish the guilty and render them better." The importance of having a man at the head of the institution properly

qualified, and who “*should be responsible for the whole government,*” is strongly insisted on ; and who ought to have power to form all rules and regulations for the government of the interior, and for appointing of the officers, subject to the negative of the Board of Inspectors. He then sums up as follows : “ The penitentiary system has measurably failed to answer the ends of its institution, and the causes are attributed to various defects, viz. The pernicious practice of frequent pardons ; *a sickly sympathy extended to those professing reformation*, under a cloak of religion ; a deficiency in the qualification of officers, who are not clothed with sufficient power to suppress all disorderly conduct in the convicts ; the want of a proper head to direct its movements ; too great intercourse out of wanton curiosity into the prison ; too many are lodged in a room, and the confinement is not sufficiently solitary.”

Some of the gentlemen, whose opinions have been quoted, admit, that one of the causes of failure was the crowding too many convicts in one room, without any attempt made by the officers, to form the prisoners in classes ; and by that means, to separate the old and hardened offender from the young and inexperienced. But, you will please observe, sir, that this is not the only cause, nor is it the principal one, as I think I have shown you, at least, upon as “*irrefragable evidence,*” as you have produced.

I have not attempted to deny the fact, and therefore, you need not have made the quotation from our report ; that as long as it is necessary to confine (indiscriminately) a number of prisoners in the same room, our state prisons can be no other than a college of vice and criminality. The defects of construction in all our prisons, except that at Auburn, and the one now building at Mount-Pleasant, is, that the rooms are too large and too few.

They are calculated generally, to lodge from eight to twelve persons, and thus to form a pernicious congregation, unless due care is taken to prevent it, by those having the control and management of the institution. I have, therefore, always been willing to make due allowance for the awkward construction of our prisons; but, must nevertheless insist, after admitting this disadvantage, that a more correct and severer discipline might have been established, which would have resulted beneficially to the criminal, and satisfactory to the community. If the officers of these institutions had adopted the proper measures for ascertaining the character and disposition of the convicts, on, or before their entrance into the prison, and acting on such information, had separated the hardened offender from those of a less vicious character, we should not have had so much reason to complain of our penitentiaries becoming seminaries of vice. And had this been followed up by a prohibition of all conversation among the convicts, both by day and by night; decent behaviour and regular habits; a strict decorum and order in all their movements, in going to their labour in the morning, to their several meals through the day, and to their rooms at night, the penitentiary system would not have been despaired of, as it has been by so many of the well-informed and benevolent, both in this country and Europe.

That this might have been effected, is evident, from the following fact. The prison now erecting at Mount Pleasant, under the superintendence of Elam Lynds, Esq. the former agent and principal keeper of that at Auburn, is building altogether by the labour of convicts. There are no mechanics employed, except one Mason, one Blacksmith, and one Carpenter, and they act as keepers, as well as instructors to the convicts in the

several branches of building. When this structure was to be commenced, one hundred convicts were transported from the Auburn prison to the site of the new prison at Mount Pleasant. Here there was no place to confine them ; but, immediately on their arrival, they were employed in building a barrack, for which boards and scantling had been previously provided. This building was about 100 feet long, by 30 feet in width, and was constructed of one inch boards, nailed to 4 by 4 joist. It was all complete on the evening of arrival, and the convicts were safely lodged in it, and the next morning, they commenced the operation of quarrying stone.— These men were not selected for their docility of character, or mildness of disposition, but for their hardiness and health, and some of them for their knowledge of masonry, as they had assisted in building the prison at Auburn. In this slight fabric, the sides of which, either of the convicts might have kicked out with his foot, were these *one hundred men*, many of them of the most daring and resolute character, confined during the night, for seven months of the first year ; during which time, only two attempts were made to escape, by any of them ; and at the setting in of the winter, they had so far completed one part of the prison, as to admit of being comfortably lodged, two in a cell, for the remainder of the year. This proves, sir, that by a wholesome discipline, the most turbulent spirits, may be brought to a state of order and regularity ; and that, the construction of our prisons, is not the sole cause of the injurious effects of the penitentiary system, under the old order of things.

You have been very severe upon the Prison Discipline Society of Boston, because in their report, they state, that as soon as the evils existing in our penitentiaries are known, the proper authorities have applied

themselves to correct them ; and to prove this untrue, you quote from the report of commissioners, appointed by the Massachusetts Legislature ; stating, that in some of the rooms of the prison at Charleston, *four*, and in others, *eight* of the convicts are lodged at night, *without an inspector* ; and recommending two additional buildings with cells, for the punishment of the disorderly, &c. You then show, by the report of a committee to whom the subject had been referred, that this extension of buildings was not agreed to, because, as the committee say, to extend the institution in this manner, would make it extremely unwieldy and unmanageable, &c.

Notwithstanding you have endeavoured to throw the whole odium of the failure of the system upon the constituted authorities of the states, I think there are some palliating circumstances connected with the subject, which ought to exonerate them in some degree from blame.

The Massachusetts State Prison is a large and extensive establishment. The main building is 200 feet long by 44 feet wide. About 5 acres of ground are enclosed by a wall, within which is a work-shop, 121 feet long, and 25 feet wide, two stories high. This must have cost the State several hundred thousand dollars. The main building contains 90 cells, or lodging rooms, besides the necessary accommodations for Keepers, Inspectors, Hospital, Kitchen, and Chapel.

The last report in my possession is for 1823, when the total number of convicts in the prison, was 308, and we have no reason to conclude, that the number was greater in 1817. Indeed, the Committee, according to your quotations, make the number but 300. This would be about three and one-third for each room. Now, if you have doubted the truth of the statement made by the Boston Society for the improvement of

prison discipline, what shall we say to the assertion of these Commissioners, "that 300 persons should be found living promiscuously together, *in some of the rooms four, and in others eight?*" One of two things must be true, either the Commissioners did not make a fair representation, or the governors of the institution was guilty of reprehensible neglect. It is customary in all our penitentiaries, I believe, to select a number of the convicts, who are found trust-worthy, as menials to perform the cooking, washing, sweeping, &c. ; this would probably reduce the number to *three for each cell* ; and can it be said, that with any thing like proper and necessary discipline, and such ample accommodations for classification, this prison could not be governed without producing the evils named by the Commissioners ; such as conspiracies, turbulence, and attempts by the convicts to force their way over the wall ? It is to me incredible, and I can only attribute the state of things described by the Commissioners, to a total disregard of discipline, assisted by the strange opinion, that such men as convicts generally are, can be governed by *kindness, forbearance, and moderation.*

May not the Committee of the Massachusetts Legislature, to whom this report of the Commissioners was referred, and who, no doubt, examined the subject for themselves, as they did not report until 1818, have taken the same view of the matter that I have ? The report of the Judges, to whom the subject was referred in 1819, only goes to confirm the opinion of the Committee who went before them ; and on that part of their report, respecting "the exposing the young and less hardened criminals, to the contagion, which cannot but exist, in the society of the most abandoned and profligate." I have only to observe, that there was no necessity for such exposure in a prison possessing the ac-

commodations which that did ; and the permitting of it, by the officers of the prison, ought to have been the cause of their immediate dismissal.

The Philadelphia penitentiary, is an extensive establishment also. It is 190 feet front with wings on each end of 95 feet each, making the whole building 380 feet in length by 40 feet in breadth. In addition, there is a building exclusively appropriated for females, of 55 feet in length by 45 in breadth, and another containing cells for solitary confinement, 180 feet in length, by 70 feet in breadth, together with accommodations for extensive work-shops, Inspectors' rooms, Keepers' dwelling, &c. &c. The sleeping rooms are entirely too large, being about 18 by 20 feet each, and there are only 16 cells for solitary confinement. With all these disadvantages however, I am of opinion, that a great improvement in the conduct of the convicts might be effected, even in this prison, with proper discipline, and such classification of the prisoners, as the construction of the prison would admit.

I am convinced, from actual observation, that nine times out of ten, the evils of the system must be attributed to bad management. Sometimes the clashing opinions of the governors, prevent the salutary effects of discipline, and the authority of the Keepers is fritted down to nothing ; at others the Keepers are not sufficiently energetic, and prefer indulging themselves in ease and sloth rather than exercising their faculties of mind and body, in a strict and rigid performance of duty. In most of our penitentiaries, the responsibility is not sufficiently individual, and is shared among so many persons, that it cannot be made to rest upon any one. Thus the Board of Inspectors for the Philadelphia prison consists of *fourteen* persons, besides the Keepers and other officers of the establishment ; in ad-

dition to which, there is a Committee from the Society for assisting distressed prisoners, and another from the Society for the gradual abolition of slavery, who have free access to the prison, at all times. It would be folly to expect, that among such a multitude of persons, there should be an agreement in opinion upon all points, or that there should be any but a *shifting* responsibility, for mismanagement, relaxation of discipline, or neglect of duty. Some of the rules, or usages, at this prison, are worthy of notice. We are told, that the work shops are so divided, that about seven convicts work in each, and that one of these convicts is appointed as overseer of the others, whose duty it is, to notice all offences of his shop-mates, and report them to the Keeper, (see Rees' Cyclopædia, American edition, title Penitentiary.) Thus, in a prison, confessedly containing the most desperate and abandoned part of the community, it is expected, that one convict shall inform against his associate, and by that means, bring upon him the punishment of solitary confinement, with a diet of bread and water. In our report, page 17, we have illustrated the fact, that a convict who should inform of another, does it at the peril of his life. In one case, merely from an opinion among the convicts, that one of their number had given some information against them, an attempt was made to take his life. He was dangerously stabbed, and it was with some difficulty that he was rescued by the Keepers. In another, the Commissioners wished to obtain some information from a convict who possessed it ; but, it was observed by the Keeper, that it would endanger the safety of the convict, to call him away from his work, without making a plausible pretext for it ! This was done, and the convict conveyed to a private room, where due care was taken, that he was not seen in the presence of the Commissioners.

These facts, with many others brought to view by our report, never appear by the annual exhibit of Inspectors ; or if they do, I have never been so fortunate as to see them ; and in my opinion, you would have done well to have omitted your reproach, that I “ attempted to throw discredit on the reports of Inspectors,” as the displeasure of these gentlemen has been sufficiently expressed already, and it was not necessary therefore, that you should attempt to excite them to a renewal of it.

In the prison alluded to, where this audacious spirit was manifested, there were *Nineteen Keepers*, whose annual pay amounted to \$12,000, and *Twenty Guards*, well armed and accoutred, whose annual pay for services only, amounted to \$4,000. Is it to be credited, therefore, that in a prison, which (although there have been several insurrections within its walls) has never been forced, and with a guard of thirty-nine able bodied men, no better discipline could be enforced, than what would admit of the timid policy I have noticed ?

I will take the liberty of noticing another of the rules or usages in the Philadelphia penitentiary. At sundown, it is said, the convicts retire to their rooms, and from that time until nine o'clock, they are allowed to *amuse* themselves ; after which, they must not converse loud, or make a noise. In the winter, therefore, they are allowed at least, four hours for *amusement*, and as they are not allowed to converse aloud, or make a noise, after nine o'clock, it is presumed that, before that hour, they may make as much noise as they please.— These are indulgences which are destructive of all discipline, and it is owing, in a much greater degree, to the granting of these inexpedient and unnecessary privileges to criminals, that the evils growing out of the system and so loudly complained of exist, than to the construction of the prisons, or as you say, *the want of room*.

It is in my opinion then, not entirely out of the reach of possibility, that the members of the Legislature, who may have visited the Philadelphia prison, observing the want of discipline; the comfortable situation of the criminals; the privileges extended to them; the mild and gentle bearing of the keepers towards them, and the paucity of the benefits to the public; having observed all this, and more, they may have concluded, that it would be an imposition on their constituents, to tax them for the extension of an establishment, on the representation of persons too, who had been disappointed in their sanguine expectations of reforming these subjects, and when so little benefit had been elicited, and so much money had already been expended for the object.

It may be too, that the expenditure of the money, granted from time to time by the state, had not been managed with that economy and usefulness, which the nature of the case demanded. I find, by a report to the senate of Pennsylvania, on the 27th of January, 1821, that on the 2d of April, 1803, the Legislature, on the representation of the inspectors, that the number of convicts had become too great for the means of accommodation, appropriated an amount equal to \$105,000, to be applied to the building of a new prison, *for the use of the city and county of Philadelphia*. This was a liberal appropriation, and in the hands of a private person, would have built a prison sufficiently extensive and secure, to have accommodated three or four hundred convicts with single cells for each; but like most public matters, the business was badly managed, and the directors, very imprudently, commenced a building, which, on account of omitting to count the cost, they were unable to finish. "The plan upon which

it is constructed, (says the report) renders it wholly unfit for a state prison; and even were it entirely finished, it never could be occupied but as a common county goal, for the confinement of untried prisoners, vagrants, and offenders convicted of petty offences."

From this you will see, sir, that you have been rather too positive in your assertion, that no attention has been paid to the calls upon the constituted authorities "*for want of room;*" and you will also see, what a want of foresight and knowledge there was, in the expenditure of this large sum of money.

I am led to believe, also, that there is a great want of that experimental knowledge, so necessary in matters of this nature, displayed in the construction of the new prison, now building in Philadelphia. It is calculated for 300 cells, or rooms, to be sufficiently large to admit a loom for weaving, or other working apparatus; and the convicts are to be confined to labour and solitude. The cost of this building will be twice the amount of that now erecting by this state, at Mount-Pleasant, and will not accommodate half the number of men; and if it does not, after all, fail in the objects contemplated, I shall be very happy in acknowledging, that I have taken an erroneous view of the subject.

You have quoted from a first report, made in the year 1791, of the inspectors of the state prison at Philadelphia, that "There have been but two instances of burglaries in the city and county, for near two years." This is strange, particularly so, when you had before you the tables furnished by Mr. Vaux, of those convicted, sentenced and brought into the penitentiary, from 1787 to 1825 inclusive. Two years previous to 1791, will bring us back to 1789, and agreeably to those tables, there were convicted of burglary, *twenty-two*;

in 1790, for the same offence, *five* ; and in 1791, *four*. I make no comment on this, however, as the error must lay with the inspectors, Mr. Vaux, or yourself.

That the penitentiaries in this country, on their first establishment completely answered the purpose for which they were intended, I am neither willing to admit, or deny, for I have no data in my possession, by which to form a *conclusive* opinion on either side of the question. There is one fact however, worthy of remark, and which may have tended to produce a more favourable impression, than what was precisely correct, relative to the effects of the system for the first few years after its establishment. It is this: *the abstraction of criminals, or the withdrawal of them from the mass of community*. In this State, no sentence to the State Prison is for a less term than three years. For the first few years therefore, those convicted and sentenced for this, or a longer term, could not have been returned upon the community, except by pardon ; and it is presumed, that this power was more sparingly exercised in those days, than at the present time. Crimes would naturally decrease, therefore, by the abstraction of the criminals. Previous to the revision of the penal code also, there were numerous crimes of a minor grade, which was punished by whipping, branding, cropping of the ear, labour with a wheel-barrow and chain, on the highway, &c. These criminals, after punishment and exposure, were turned loose on the community, and again left to depredate on society. By confinement however, these repeated depredations were prevented, and until their longer term of imprisonment was completed; there were no re-commitments, of course. May not these circumstances therefore, account in part, why crime had decreased, and re-commitments were rare,

for the first few years after the establishment of our penitentiaries?

The State Prison in this city was opened for the receipt of convicts, about the year 1797. I find by my minutes of examination, that in 1798, 1799 and 1800, there was no re-commitments; but in 1801 there were re-committed for a second offence, *twenty-three*; and in 1802, there were *forty-four* re-committed for a second offence, and *two* for a third. In 1803 there were *twenty-three* re-committed for a second offence, and *two* for a third. In 1797, *one* escaped, and in 1798 there were *three* who escaped from prison. In 1799, *eight* escaped; in 1800, *nine*; in 1801, *five*; and in 1802, *one escaped the vigilance of his keepers*.

This, you will please observe, was at a period when the "*reformatory system*" was in full operation. The prison had only been occupied about four years, when twenty-three, who had been discharged, probably by pardon, on the recommendation of the Inspectors, are returned for a second offence; and during that period also, twenty-six were allowed to escape from imprisonment, either through the neglect of their keepers, or by the silly confidence placed in their professions of reformation, by the Inspectors. There is one fact, which tends to demonstrate the injudicious indulgence granted the convicts, that ought not to be passed without notice. I allude to the table exhibited in our report, page 11, where it is shewn, that *twenty-three hundred and twenty-three dollars* had been expended in about six years, for the purpose of supplying the criminals, then imprisoned, with the luxury of *Tobacco and Snuff!!* We might also, refer to the revolts which occurred in the New-York prison, during the operation of this lenient system; the shedding of blood in the attempt to quell them, and the attempt to fire the prison, together with

the actual burning of a principal wing of the structure. It was these occurrences which induced the law, authorizing the raising of a company of militia in the vicinity of the prison, to be called out in the event of an insurrection, and not that the Commissioners were fearful, that under the system of discipline recommended by them, any such occurrence would happen. These are facts, sir, that cannot be controverted, and they are not calculated to strengthen the opinion you have attempted to inculcate, "That the Penitentiaries of America, on their first establishment, completely answered the purposes for which they were intended."

The same results, I apprehend, would show themselves, were we in possession of similar data, from the other Penitentiaries of the several states, in which they are established.

By a statement published in Niles' Register for December, 1820, it is shown, that, in 1817, there were 451 convicts in the Philadelphia penitentiary, and that *one hundred and sixty four of them* had been more than once convicted ; *how often cannot be ascertained*. It would appear therefore, that no register of repeated convictions is kept at that prison ; or if there is, that the Editor of the paper was denied the inspection of it, or did not seek the information, or the Inspectors may have deemed it prudent to withhold it from the public gaze, who may have construed it, as an evidence of inefficient management, or laxness of discipline.

In New-Jersey, of 160 pardoned, 38 have been convicted a second time, *four* a third, and *one* a fourth.

In Maryland, of 37 pardoned, 23 had been pardoned once from the Boston, Baltimore, Philadelphia, New-York, or New-Jersey prisons, and 14 had been pardoned *twice*, or *thrice*, in those States.

In granting pardons, particularly those recommended

by the Inspectors, the pardoning power must have been assured, that a reformation had been effected ; or at least, that the Inspectors had reason to believe, from the orderly and obedient behaviour of the convict, that he would conduct himself with propriety after his release. That they have been deceived however, no one will doubt, and that too, in nearly all the instances that occurred in the early stages of the system ; and that the system you recommend, will lead to the same results, if not worse, there is but little room in my mind to doubt.

It may not be improper here to state, what I mean by the penitentiary system.

I understand it to be an alleviation, or commutation of the former mode of punishment for criminal offences. Under this system, most of the crimes formerly punished by death, such as burglary, highway robbery, rape, manslaughter, counterfeiting, &c. ; and all those crimes punished by public whipping, branding with a hot iron, cropping of the ears, &c. in conformity with the former criminal law, are to be punished by our law, with imprisonment at hard labour in the State prison.

The objects of the system I understand to be—First, Punishment for the crime committed. Second—The peace and safety of community, by confining those, who otherwise would depredate upon their property, or jeopardise their lives. Third—The prevention of crime by the fear of detection and punishment. Fourth—Compulsive labour and seclusion, in order that the public may be indemnified for the expence of maintenance ; that habits of industry may be inculcated ; information in mechanical science acquired ; ability to gain an honest living obtained ; lessons of morality and religion communicated, and submission to order, decorum, and the rules of the prison enforced.

Your law books, state it to be, "Punishment in lieu of transportation ;" and buildings are to be erected "for confining and employing in hard labour, such convicts as shall be ordered to imprisonment and hard labour." And the governor, "so far as is consistent with age, sex, health and ability, shall keep such offender to labour of the hardest and most servile kind, in which drudgery is chiefly required, and where the work is little liable to be spoiled by ignorance, neglect, or obstinacy ; and where materials and tools are not easily stolen or embezzled."

You too have declared, at page 88 of your observations, "it is the primitive decree, that mankind should eat their bread in the sweat of their face, until they return unto the ground, and that he that will not work shall not eat." And the discipline you recommend, is, "regular habits, *constant labour*, solitary confinement by night, restricted intercourse with his fellows by day, submission to instruction and advice, decency and correctness in speech, and a strict conformity to other rules and regulations prescribed by his superiors, must be his lot."

Now sir, what is it that we require of the convicts committed to our prisons, more than you have stated above ?

He must labour constantly ; be separately confined at night ; have no manner of intercourse with their fellows ; use decency and correctness in speech to his keepers ; be regular in his habits ; conform to all the rules of the place prescribed by his superiors, and submit to instruction and advice.

It appears to me, that we only differ as to the means to be used for carrying these indispensable requisites into effect. You believe it can be done, by kind and gentle treatment, by a suavity and sweetness of man-

ner, by a forgiving temper toward them, that will not punish for slight faults ; by maintaining a daily and constant intercourse with them, and by advice, remonstrance, and information, to improve them, both in morals and religion. And yet they are to be profitably employed, so as “to enable every person individually, to obtain considerable more, than is necessary for his own support.”

Now, in my humble opinion, allowing these men to be as open to conviction, and as willing to be advised, informed, and improved, as you seem to think they would be, it would still be impossible to effect both objects in view ; namely, profitable employment and reformation. While your Directors are holding intercourse with them, advising, remonstrating, and informing them, the work would be interfered with, and the labour must cease in part, if not altogether, and of course be void of profit. But the lenient treatment you propose will never effect the object you have in view, except upon those whose moral sense is not entirely obliterated by a repetition of crime, and upon them, seclusion from the contaminating influence of the old offenders, and the ordinary discipline of the prison, with the advice of the Chaplain, will be sufficiently effectual to prevent a repetition of crime.

It is absolutely necessary, that every criminal should know to a certainty, that if he breaks the rules of the prison, he will be punished ; and knowing this, the rules are rarely broken, or if broken, never repeated.

You have referred me to your tract on penal jurisprudence, for your ideas of punishments ; where you say, “whatever punishments are necessary to accomplish these purposes, must, under due precautions, and by proper authority be inflicted, however severe and painful they may be.”

What are the kind of punishments you would propose however, does not appear ; but, I am to presume, as you are so decidedly opposed to whipping of every kind, even the small stroke of the Keeper's rattan, that you would resort to a diet of bread and water, or some similar expedient. Solitary confinement you consider entirely too cruel, and "galling chains," you very properly view with abhorrence.

From what part of our report, or of any thing I have said on the subject of the penitentiary system, you take the liberty of drawing your conclusions, that what we have recommended, "returns again precisely to the same idea of criminal jurisprudence as existed before the penitentiary system took place," I am unable to imagine. That this is not the effect of what we have recommended, I think I may say with the utmost confidence, for I have never despaired of the system, under an enlightened and wise administration of it ; and my only fear has been, that the enthusiasm of theorists, and those who have only studied the world of mankind in their closets, might so far prevail, as to perfect their object, and have their schemes of conversion and reformation, again put on trial ; and after a total failure of all they had promised or expected, induce the public to abandon the whole penitentiary system as inefficient and visionary, and thus entail upon posterity, the odious and cruel code of sanguinary punishments.

But, although the truth is undeniable, as I think I have conclusively shown, that the reformation of the hardened offender, however desirable it may be, is but a forlorn hope ; we by no means despair of youth and inexperience, and of those who are new in crime.

You are no doubt in possession of the fact, that a House of Refuge, for the reformation of juvenile delinquents of both sexes, has for some time past been es-

tablished in the city of New-York. Here, sir, your system is almost literally in operation. Agreeably to the charter of the society, they are authorized to receive all minors committed by the magistrates for vagrancy or petty offences ; and also, all minors convicted by the courts for larceny, that may be sentenced to that establishment. The children thus received are to continue in the house until they are of legal age, or until the managers shall believe their evil propensities are so far corrected as to admit of their being bound out to service, or to some useful branch of business. While in the house, they are employed at such mechanical branches as the managers have deemed useful, both as to the productiveness of the labour, and the suitableness of the calling. A school is established under the direction of a competent teacher, and four hours of each day devoted to that object.— There is a regular succession of clergymen, who deliver discourses twice on each Sabbath, suitable to the capacities of the children, and one evening in each week, they attend religious exercises, for exhortation, prayer and singing. The superintendent of the establishment is a gentleman eminently calculated for the station he fills, of a disposition naturally mild, and a temper well disciplined ; he enforces the rules of the house with singular affability, and at the same time, with sufficient firmness to command respect, and of resolution to punish disobedience.

This institution has thus far been successful in reclaiming many of these profligate and abandoned children from vice and criminality. By the last report it appears, that 28 boys and 15 girls had been indented to service, or some other useful calling ; and the information received from those to whom their services were due, has, pretty generally, been approbatory of their character and conduct. It has been found necessary,

however, as a last resort, in a number of instances, to have recourse to corporal punishment ; and it has also been found, almost impracticable, to subdue the evil propensities of most of those who had arrived at the age of sixteen years and upwards. You no doubt have been furnished with the reports of this society, and it is needless, therefore, that I should be more particular.

The only true and proper means for lessening criminal acts, and their consequences, is the extension of knowledge, freely and liberally to the rising generation. The necessity of this, is fast gaining ground with the people of this city and State ; and exertions are making here, by the public school (formerly the free school) Society, to establish school-houses in the most remote parts of the city, so that there shall not be a single child deprived of the convenient means of gaining a common school education. The society has now nine schools in full and successful operation, and they are preparing for the erection of one more, at least, during the present season ; and whenever this common school system shall become general throughout the United States, and the children of the poor, the profligate, and the careless, shall be educated, we may hope there will be a diminution of criminal acts, although we cannot anticipate an entire cessation of offences.

I have extended my remarks beyond what I had intended, and I will therefore conclude by observing, that I hope I have been enabled to make it appear, that your remarks on the report of the Commissioners was uncalled for ; in many cases inapplicable ; and that, the charges you have preferred against them, are unfounded. That my answers to your remarks (particularly such of them as you have selected, and quoted in your late work, for animadversion,) are correct in fact, notwithstanding your attempt to invalidate them. That

the subject of solitary confinement, which occupies such a large space in your "brief statement," had nothing to do with the matter in hand between us, as I neither advocated or approved the measure by any thing contained in my reply to your remarks. That the strong ground you have taken on the subject of the early operations of the penitentiary system, is not so perfectly tenable as you assert it to be ; as, from the facts I have stated, some reasonable doubt on the subject may be entertained. That the positive assertion you have ventured upon, that the whole of the evils that have attended the penitentiary system, was occasioned by *the want of room*, and not to your scheme of forbearance, sympathy, and kind attention to the convicts, or the inefficient management of the institutions, is, to say the least of it, not fully proven, as will appear by the facts I have quoted, together with the opinions given on the subject, by some of the first characters of our country. Finally, that the system you have recommended, if put in practice here, would inevitably tend to the destruction of the whole fabric ; which, although reared by the labour of the best of men, has nevertheless proved imperfect in its operations, and required time and experience to test its validity. That test has now been given ; the former practice exploded, and the institutions of this State, are fast advancing to perfection under the improved system, both in the construction, and the government of our prisons, from which we anticipate the happiest results, both to the present and succeeding generations.

S. A.

City of New-York, May 12th, 1827.

P. S. After the foregoing observations were in type, a friend handed me the "National Gazette," a Philadelphia newspaper, containing a letter from Robert Vaux, Esq. addressed to Mr. Roscoe. The object of this letter is, mainly, to vindicate the plan of labour and solitude, proposed to be pursued in the new prison at Philadelphia; and to show that the charge brought against this plan, by Mr. Roscoe, (in his pamphlet addressed to me,) "as most inhuman and unnatural," is unfounded. Mr. Vaux, however, instead of confining his remarks to the support of his favourite plan, has thought proper to step aside from his subject, for the purpose of "admitting to the utmost extent," Mr. Roscoe's attack on the discipline of the Auburn prison; or, in Mr. Vaux's own words, "that the severity used to maintain the discipline of the penitentiary at Auburn, in the state of New-York, is utterly unjustifiable, and will fail to yield any but the most pernicious results." This, I have no hesitation in saying, is entirely unfounded; and in support of this assertion, I may with confidence refer to every gentleman of intelligence and observation who has visited that prison, and has taken an unprejudiced view of the discipline pursued there; among whom I take the liberty of mentioning the respectable secretary of the prison discipline society at Boston; the reverend gentleman who now officiates as resident Chaplain of the institution, and who being employed by that society, was bound to expose all such flagrant abuses as those stated by Mr. Vaux, had they an existence; and to my colleagues in commission, appointed by the Legislature for the sole object of reporting whatever might, on examination, appear improper in the conduct of those who have managed the concerns of the institution. And as to the "*pernicious results*," predicted by Mr. Vaux, I beg the permission

to refer him to the last report from the inspectors, an abstract of which will be found in the appendix, and then, if he can, show similar effects from the prisons in his state, either under the old or new system. It is by the effects of a system, that its utility is to be tested; and until Mr. Vaux and Mr. Roscoe, can produce proof, such as has been furnished by the agent of the Auburn prison, of the beneficial results of their systems, they ought to cease from the promulgation of their theoretical views; and also, from their general condemnation of others, whose objects and motives are as just and pure as theirs are.

The ample testimony alluded to, however, appears to have but little weight with these gentlemen, both of whom, have unhesitatingly preferred charges against the discipline at Auburn, "as an arbitrary policy, and frightful catalogue of abuses," and that, in my opinion, without the shadow of a proof. Mr. Vaux, it is true, refers in a note, to the report of the commissioners appointed in 1826, as evidence of cruel treatment to the prisoners; but he has not condescended to quote from that report, nor has he referred us to any particular page, or fact, contained in that document, to which we may turn for the required proof of his assertion.

The examination made by these Commissioners was, perhaps, the most full and extensive of any similar one on record. They spent several weeks in its performance; took the testimony of more than eighty witnesses, all given under the solemn sanctions of an oath, and extended their inquiry several years back, and until the complainants had exhausted every shadow of proof, bearing upon the transactions of the prison, or unguarded expressions of its officers, when out of it. The result of which was, that in a period of something more than FIVE years, during which time the prison has been

under the management of three different persons, as principal keepers ; there were twenty-seven cases of corporal punishment ; thirteen of which, from the ample testimony produced, the Commissioners declare to be perfectly justifiable, and fourteen cases, they consider as abusive, in a legal point of view.

The average number of convicts in the Auburn prison may be stated at about 400. These men are admitted, even by Mr. Vaux, to have " become hardened by a career of vice," and that " all experience proves, how difficult it is to make any impression whatever upon the feelings of the benighted and unhappy subjects of criminal punishment." Now, with such a community as this, is it not more to be wondered at, that the cases of punishment were not more numerous than they were, rather than that there should be less ? The abusive cases mentioned by the Commissioners, are neither justified by them, or by the principal keeper of the prison ; and in several instances, it appears, the perpetrators of them were discharged from the station they held. Corporal punishment ought only to be inflicted as a last resort, and for flagrant abuses ; and in these cases we aver, that it is more humane, and better calculated to answer the ends of justice in a prison, than the means resorted to in the Philadelphia penitentiary. Mr. Vaux tells us, that in that prison, "*many individuals have, for acts of violence committed in the prison, been confined in the cells for six, nine, and twelve months in succession ; generally in irons, and always on a low diet.*" Will any reasonable man be led to believe, that this punishment of *twelve months confinement, in chains, and upon a diet of bread and water*, with all its emaciating tendencies of wasting the bodily strength of the subject, and fixing on him, as in some cases it has, incurable disease, has the preference, on the score of hu-

manity, to a wholesome and immediate chastisement? It is scarcely credible. There are other considerations, opposed to this immurement of the convict, worthy of note. While he is thus confined, the time is totally lost, not only to the public, but to himself; for one of the objects of the system is, that the man shall be taught some useful employment, by which he may gain an honest living when discharged; and how is he to gain this, if for every breach of order, he is shut up in close confinement? It has been observed also, where this system of close confinement on bread and water has been tried, that a mere habit of indolence, has induced convicts to commit offences for the purpose of having some idle days in the cells, and when weary of the spare diet and solitary confinement, that they have professed repentance and sorrow, in order to their being released.

It is my sincere belief, that there is no prison in the United States, where corporal punishment is resorted to for enforcing discipline, that inflicts less of it than at the prison at Auburn. This is not susceptible of proof, from any documents in my possession, and must therefore pass for what it is worth. But I draw the conclusion, from observing the natural consequence of a system of kindness and forbearance upon the generality of convicts, that it is destructive of all order and good government; which has been undeniably shown by the report of the Commissioners of 1826. They inform us, that during the agency of Mr. Goodell, at the Auburn prison, the system he pursued, was professedly a departure from the strict discipline enforced before his time, and that it was one of moderation and forbearance.— Under this system of kindness and good feeling, which lasted only nine months, there were *twenty-one* cases of corporal punishment, and six different convicts made

murderous attacks upon the keepers ; and of the fourteen cases of abusive punishment, twelve of them were in his time. That, during something more than four years under the agency of his predecessor, there were only six cases of corporal punishment, and but two of them were abusive. There was, during this whole period, but one attack by a prisoner upon his Keepers. This, it appears to me, speaks volumes in favour of a strict and energetic discipline. I will add no more, but respectfully advise Mr. Vaux, before he writes any more against the Auburn prison and its discipline, to go and see for himself, and if he does not return home, with different views and opinions, than what he now possesses, I shall feel much disappointed at the result.

S. A.

New-York, May 18th, 1827.

Note to page 16. One of the cases referred to, was that of Hiram Maxwell, (page 15 of Examination.) This man was in prison (when I examined him) for the third time. His sentence was three years and one day in solitude, and he had then served seventeen months of the term. *He appeared very penitent, and declared he was a reformed man, and had fully repented of his evil deeds.* It since appears, that he served out his term, and immediately on his discharge, commenced his career by theft. On his way from Auburn to Albany, he stole sufficient to furnish himself with a new suit of clothes. He then took passage in one of the steam-boats for this city, and on the arrival of the boat, he went off with the trunk of one of the passengers, and had the adroitness to prevent detection. He was suspected, however, and known to our police officers, who ferreted him out, but failed in discovering the stolen property. On his trial, he plead not guilty, and the evidence not appearing sufficient to convict him, he was discharged on condition of leaving the state. On the day of his discharge, he took a horse and gig from one of the livery stables, placed the stolen trunk in it, and drove off. Being pursued, he left the gig and horse on the way, and by another conveyance went to Rockaway, on Long-Island. Here he was recognized, and information given to the police of his location ; upon which, officers were despatched to apprehend him, and he was again put on his trial. The stolen trunk was found in his possession, and he was convicted and again sentenced to the state prison.

This is only one of the cases, and more than thirty might be cited, shewing the uselessness, to say the least of it, of solitary confinement, as a means of reforming old and hardened offenders; and showing also, the fallacy of placing any dependence on the professions of reformation and repentance, avowed by these men, while in prison.

A very recent case occurred at the Court of Sessions, now sitting in this city, (May, 1827.) William H. Tryon, a lad of about 21 years of age, was convicted of larceny. The judge observed, after his conviction, that in April, 1820, he had been sentenced to the penitentiary of this city; in February, 1821, he was convicted and sentenced to the state prison; in April, 1824, he was again sentenced to the penitentiary; in 1826, he was for the third time sentenced to the penitentiary; and in May, 1827, he will, for his last offence, be again sent to the state prison.

As the cases I have quoted above, as well as those quoted on a previous occasion, are all confined to this country, I beg leave to make an extract from an English paper, called the Liverpool Mercury, in proof of the assertion, that but few are reformed by the ordinary discipline of a prison. The editor states, that throughout the country there is nothing but alarm on account of the rapid increase of crime. That the Recorder in addressing the Grand Jury at the Easter Sessions, observed: That he regretted to find, that the number of prisoners to be tried at the present Sessions was unusually large, and that the worst feature in the calendar was, that upwards of seventy of the prisoners were considered under twenty years of age. He stated, that his doubts respecting the benefits which ought to flow from prison discipline, agreeably to the views of those who had laudably devoted so much attention to the subject, were grounded upon the fact, that there was no less than *fifty-one* former offenders to be tried at the present Sessions, many of whom were very young, and who upon the close of their imprisonment, were immediately detected in the commission of fresh offences.

At the Salisbury Sessions, it was stated, that the number of commitments in the short space of ten weeks and a few days, was two hundred and thirty-two. The same complaint is made of the re-appearance of old offenders, who are never it is said, fewer than one-fourth of the whole. Comment on the above is entirely unnecessary.

APPENDIX.



Extracts from the Annual Report of the Inspectors of the State Prison at Auburn, for the year 1826.

THE expences of the Prison during the year ending on the 31st of October, 1826, amounted to \$30,736 05. The nett earnings of the convicts during the same time, including the sum received from visitors, amounted to \$20,522 17, which left a balance against the Prison, of \$10,213 88.

There were received during the last year, 133 convicts; and the number of those who were discharged, and that died, during the same time, was 132; leaving in Prison, 427, and 129 cells unoccupied.

The Agent has taken measures to obtain information of discharged convicts; which measures have been, and will continue to be pursued. Accounts have been received from 79, and their names, with an abstract of the information relative to each, is hereunto annexed. From which it appears, that the conduct of 52 is decidedly good; that 8 have been somewhat improved by imprisonment; that the behaviour of 16 is decidedly bad, and that three are not sufficiently known, and described, to form an opinion of them.

The Prison Sunday School is in a flourishing state. It consists of 100 scholars, with a competent teacher from our theological seminary, to each class, of from five to six individuals, under the general superintendence of the resident chaplain, the Rev. Mr. Curtis: and all under the constant inspection and rigid discipline of two vigilant officers of the Prison. A considerable number of the scholars are learning writing, and arithmetic. In this department, and in all other respects, the unwearied exertions, and the able and faithful services of Mr. Curtis, greatly aid in promoting the interests of this institution.

From the circumstance, that until the last fifteen months, there has never been a resident chaplain at this Prison, it may not be amiss, barely to state in this place, that Mr. Curtis came here in the capacity of a missionary, in the employ of the Massachusetts Prison Dis-

cipline Society, and receives his compensation, principally, from that Society.*

The health of the convicts is remarkably good. There is not a convict sick, except from some chronic affection. By a reference to the Physician's report, it will be found, that there have been seven deaths during the past year. The average number in the Hospital during the year, was about *five*.



INFORMATION,

Which has been lately obtained, in relation to the conduct and character of convicts, who have been discharged by pardon, or otherwise, from this prison.

Peter Warring—Discharged by pardon, April 15, 1826. Since his discharge, has lived in Auburn village. Works at shoe making, the trade at which he worked in prison—is in the employ of the Messrs. Pease, contractors for the shoe shop in this prison. Warring's conduct, since discharged, has been remarkably good, and he enjoys the entire confidence of his employers.

Ebenezer Atwood—Convicted of breaking jail in Monroe county, September 21, 1824, and sentenced for 3 years—discharged by pardon, August 16, 1826. Atwood lives in Catlin, Tioga county. A gentleman from that county says he is well acquainted with him, and that his conduct since his discharge has been good. A letter from the post-master at Catlin, fully confirms the above.

Huntingdon Larrabee—Lives in Chenango county. A gentleman from that county states, that he is well acquainted with him, and that his conduct was good before his conviction, and has been so since his discharge.

* The Law of the State allows \$200 annually, for the pay of an officiating clergyman at the prison. This money has been divided among three clergymen, having congregations in the village, who officiate, alternately, in the chapel on the Sabbath. The instruction thus given, was no doubt salutary; but, the duties these gentlemen owed to their particular congregation, prevented them from communicating with the convicts individually, having no time to spare for that purpose. This important and necessary duty however, has been performed by Mr. Curtis, since his residence at the prison, both to the satisfaction of the officers of the prison, and the evident benefit of the convicts.

Alpha Parmele—Lives in Junius, Seneca county—by trade a cooper. A respectable gentleman, well acquainted with him, states, that his conduct is good, his deportment gentlemanly, and is well esteemed. Before conviction, unsteady, and conduct bad.

David Loper—Lives in Junius, Seneca county—a shoe maker.—Before conviction, a thieving character. Since his discharge, conduct good, and is honest and industrious.

— *Smith*—Lives in Romulus. A gentleman from that section of country states, that Smith is a respectable farmer, conduct uniformly correct, is much esteemed, and has been since his discharge, one of the assessors of the town in which he lives. Before conviction, was a dissipated man. Christian name not recollected—and there being so many on the record of the prison by the name of Smith, that his crime and term of confinement, and whether he was pardoned or discharged by expiration of sentence, cannot be stated.

Justus W. Barns—Lives in Owasco—a farmer. Is industrious, supports his family well, and sustains a good character.

Edward C. Dowser—Lives at or near Geneseo, Livingston county. Is industrious, exemplary in his conduct, and well esteemed. Conduct before conviction not particularly known.

William Stewart—Lives in Cortland county. Was formerly sheriff of the county. A gentleman well acquainted with him, says, that since his discharge from prison, he has been steady, industrious, and conducted well.

Ezra Watson—Post master at Pompey, Onondaga county, in a letter to the agent, says, “since he has returned, he has been very steady and industrious, temperate and correct; is altogether more industrious and respectable than before he went to state prison.”

Lynds Rogers—Letter from the post master in Parma, Genesee county, speaking of Rogers, says, “that he is acquainted with said Rogers, and that previously to, and since his confinement, he had the appearance of a steady, industrious man.”

Elijah Phelps—Same letter as the foregoing states, that Phelps, previously to his conviction was an idle profligate; since discharged, very steady and industrious.

William M'Bride—An Irishman. Post master at Lewiston, in a letter to the agent says of M'Bride, “his case is not a fair one, as he

is an old offender, and has been in prison at New-York. His character has never been fair, and is not yet."

Lemuel Wood—Same letter as the foregoing says, "Wood's character is bad—did not know him before he was imprisoned."

Abraham Peer—Letter from the post master at Perry, Genesee county, says, "since he was pardoned in 1823, Peer has been in my employ; the last two years in a custom mill, and has given general satisfaction to customers and to me, as to uprightness and honesty, and otherwise sustains a fair moral character. Peer was never considered a very vicious character, but rather rude, and unfortunately got into bad company. The lesson he learned at Auburn, no doubt, has proved beneficial to his morals."

Joseph Mason—Post master at Preble, in a letter to the agent, says of Mason, "I was acquainted with him before he was convicted for a number of years. He was a dissipated and finally a notorious character in many respects. And I have been acquainted with him since his discharge. His conduct has been regular and consistent.—He has become temperate, and seems to despise the idea of taking the name of God in vain."

Jeremiah Parker—A letter from the sheriff at Batavia, speaking of Parker, says, "I am acquainted with Jeremiah Parker, who has been discharged from Auburn prison. I knew him before he went. His conduct, habits and manners were bad. He neglected and abused his family, and was a scourge to community. Since his return here, he has behaved himself like a man and a Christian, and seems altogether reformed from his evil propensities."

Jeremiah Stoddard and William Mallory—Same letter as the foregoing says, "I know two other convicts—William Mallory and Jeremiah Stoddard, who have been discharged from state prison; yet so unacquainted with their habits manners and customs, as not to be able to give you any information on the subject. However, as they do not infringe on the peace of the people, I conclude they are reformed." Subsequent information in relation to Stoddard, has been received, and it is stated that he is an industrious man, and sustains a fair character.

John Wesson—A gentleman, lately a keeper at the new prison at Sing-Sing, states, that among some convicts who had lately been brought there from New-York, he discovered John Wesson, having formerly known him at this prison.

Gardner Morey—Letter from the post master at Montezuma, says, "Morey's habits, before conviction, were bad, and have been bad since his return."

Amos Brainard, Jr.—Lives in Savannah, Wayne county. Same letter as the foregoing, states in relation to Brainard, "how his habits were previous to his conviction, I know not; but since I have been acquainted with him, (though partially) I have seen nothing improper in his conduct."

James Parker—Post Master at Cambridge, Washington county, writes thus, "I was not acquainted with Parker before his conviction, and can only say, that it is the general observation of his old acquaintance, that he is a much better man since than before. He is now a hard working, industrious man; is temperate, and saves his earnings."

Alexander Whitney alias Wheeler—Same letter as the foregoing, says, "Whitney, before he went, did not possess a fair character; was a drinking, boisterous, unprincipled fellow. He is now as much reformed as could in any way be expected from so bad a fellow as he was. The record of your prison will show that he was excelled in bad conduct by few. He conducts himself much better since pardoned."

Joseph T. Locke—Same letter as the foregoing, says: "Locke, before he went, was a fair character, generally speaking. He returned to this place after his pardon, and is now remarkably industrious, sober, steady, and, I believe, honest. He has the good-will of all his acquaintances, and is undoubtedly much improved. On the whole, there is a vast moral improvement apparent in the conduct of these three men since they went to Auburn."

Daniel Rowley and Salmon Newcomb—Post master at Le Roy, Genesee county, writes thus of Rowley and Newcomb: "I am acquainted with them. They were formerly convicts in Auburn state prison. The former resides in this town, the latter in Bergen, in this county. I am unable to say any thing of their conduct or character previous to their conviction; but since they have been discharged from prison, so far as I have discovered, their conduct has been exemplary. They are industrious and orderly citizens."

Simeon Benton—Post master at Florence, Oneida county, in a letter to the agent, says: "I am well acquainted with Simeon Benton, who was sentenced to Auburn prison for six years, but was liberated

after three or four years' service. Said Benton, before conviction, was a drinking, gambling, lazy man ; but he is now quite reformed—very industrious—providing a comfortable support for his family."

Israel Sammis—A letter from the post master at Sackett's-Harbor, says :—" Israel Sammis, before conviction, was intemperate, profane, and malignant. Since his discharge, I have not been so particularly acquainted with him ; but from information I have received, he has no doubt, materially improved.

Charles Francis—Same letter as the foregoing, states :—"Charles Francis, convicted of an assault and battery, with an intent to kill his wife, was extremely intemperate, (which was probably the cause of the offence for which he was convicted,) I am told has become a sober, discreet man."

Allen Packard, (registered Roswell Packard,) *Erastus Root*, and *David Tyler*—Same letter as the two foregoing, says of these three cases :—" They were jointly concerned in and convicted of grand larceny—were young men, the sons of respectable farmers in this town. Root was teaching school when arrested—but all were more or less addicted to intoxication. Since their discharge, they have returned to their homes—are very industrious, prudent, temperate and discreet, and from present appearances, bid fair to regain the confidence of the community, and finally to become good citizens.

Ephraim B. Denie—Same letter, speaking of Denie, says : " Previously to his *last* conviction, [was in this prison in the years 1817, 18, and 19,] had always been a notorious thief, and surpassed all others in crime. Since his discharge in August last, appears very penitent, meek and humble, and says he is determined to do better ;" but goes on to say, that in so marked a case of profligacy, it is impossible to say what will be the result, sufficient time not having yet elapsed, to form any thing like a correct judgment.

John Brower—Post master at Caughnawaga says of Brower : " His deportment since his discharge has, so far as I can learn, been that of a penitent, decent man. Before conviction, was intemperate.

Jeremiah Brown—Is now in the Philadelphia penitentiary ; was sentenced to this prison for passing counterfeit money in Broome county, June 26, 1821, for the term of 8 years. Pardoned 23d Sept. 1823.

George O. Buchanan—Letter from post master in Fabius, Onondaga county, says :—" I am acquainted with George O. Buchanan.

Previous to his conviction, he was intemperate in his habits, passions and conduct, and reputed for pilfering, petty thefts, and other characteristics of dishonesty. Since his pardon and discharge, there is a manifest reformation, and he frequently speaks of the wholesome corrections of the prison discipline."

David Hunter—Same letter as the foregoing, speaking of Hunter, says :—"He was a man of industrious habits and unsuspected integrity, previous to the offence for which he was convicted. Since his discharge, I have heard no different account from his neighbours as to his general deportment, and have observed no material change myself, except that he is more retired, and seldom seen abroad.

Charles W. Shaw—Letter from the post master in Russia, Herkimer county, says :—"Charles W. Shaw was discharged from state prison about a year ago. He has resided here ever since. As far as I know any thing of his character previous to the act which sent him to prison, it was good—very good, and since his liberation, it has been unexceptionable. His daily habits gain him friends."

Daniel D. Briggs—Post master at German Flatts writes thus concerning Briggs :—"His conduct and habits before he went to prison were extremely bad ; intemperance and neglect of business were the leading traits. His family were in a suffering condition by his neglect. Since his discharge, he has wholly abstained from ardent spirits, and is very industrious. I have no doubt he will continue so. I think his character and habits much improved."

Isaac Perry, Jr.—Letter from the post master in Hammond, St. Lawrence county, speaking of Perry, says :—"He has, since discharged, bore a very good character ; is industrious, and in fact, a very good citizen. I was but little acquainted with him before his conviction ; but his character since will bear highly recommending by all who are acquainted with him. He lives in the town of Morristown, about four miles from this office."

Elijah Sherman—Post Master at Geddes, Onondaga county, in a letter to the keeper, observes :—"I know of no person discharged from the Auburn prison, except Elijah Sherman, whose character has been uniformly notorious from a boy. He is now in jail at Onondaga, on a charge for horse stealing, unless he has been admitted to bail within a few days." N. B. No such person as Elijah Sherman appears on the register of this prison. He may have been here, however, under a different name, as many have assumed names.

Mace Lard—Post master at Riga says of Lard—"What his character was previously to conviction, I do not know. He now appears like a decent, industrious man, except he occasionally stimulates too high."

Nathan Dean—Same letter as the foregoing, says:—"Dean sustains a better character, (by information) since his return. He is said to be very steady and industrious."

Lettes Jenne—Lives in Lyons, county of Wayne. Post master at Geneva writes thus:—"With him my acquaintance has been slight, both before and since conviction, except from information from others, which represents him to be somewhat altered for the better. I do not think he was ever a *very bad* man, nor do I think he is now a *very good* one, but probably much better than he was."

Charles Rockwell—Letter from post-master at Cincinnatus, Cortland county, says of Rockwell—"His character, before conviction, was that of an industrious apprentice generally, but somewhat addicted to falsehood and prevarication. Since he has been discharged from prison, his conduct, character and habits, have been marked by as good deportment as before conviction, and I believe it is thought rather better."

Willard Law—Letter from post-master at Friendship, Allegany county, says—"There is one Mr. Law, who has recently returned from Auburn prison, who is a candidate for that place again. The above candidate has resided in Cattaraugus county since his return from Auburn, but passed the money in Allegany county, and is now lodged in said county jail."

Smith Y. Swan—Post-master at Stephentown, Rensselaer county, writes—"I find only one convict, which is Smith Y. Swan. He was formerly rather an idler. Some fault of that kind was heard amongst his neighbours. Since his return, he has taken a wife, and is more industrious; and his neighbours inform me that he is a much better person in society than he was before he was imprisoned."

James D. Scisco—Letter from post-master at Sardinia, Niagara county, says—"Scisco has not tarried here much since he was discharged; but from what I can learn of his conduct, and the company he keeps, I conclude that he has not reformed much."

Thomas Humphry—Letter from the post-master at Tyrone, Steuben county, says—"I was well acquainted with Thomas Humphry. He was a very lazy, idle man, but was of a very kind, friendly tem-

per, and sober; and generally reckoned as honest as a poor man could well be, who would not work and support his family. Since his discharge, I have not known him personally; but I am informed that he has become a very industrious man, and all his bad habits entirely cured."

Reuben Ford—Post-master at Salisbury, Herkimer county, in a letter to the keeper, says—"previous to Ford's imprisonment, his conduct was a great trouble to society. As to his conduct since, it is agreed by all the best part of community, that had he the same chance to do mischief, he would do as much as ever he did. But his character is so much more known, that his opportunity is small to what it formerly was."

Dennison York—Post-master at Galway, says of York—"previous to conviction, York (who has been two terms) was an inconsiderate, loose, thievish young man, profane and intemperate. At this time, York is, by many, supposed not to possess a sound mind; is perfectly harmless and inoffensive; considers himself spiritually called to preach, and consequently, at neighbourhood meetings, exhorts; is pretty regular in his habits."

Jeremiah G. Ferguson—Same letter as the foregoing, speaking of Ferguson, says—"He was as bad a man as the county could produce; addicted to every vice; particularly noted as a fighting bully. To give him his true character, would be an enumeration of all the vices man is a slave to. Ferguson is now a very peaceable man; industrious, but is partially intemperate. His punishment has not made him a good man."

Jacob Shaw—Same letter says—"Shaw was, by the public, considered a good citizen, other than inconsiderate and irregular. Probably his general character was supported from his being of a good family. By those best acquainted with him, he was supposed to possess a propensity to stealing. Shaw is not known to have been guilty of any misdemeanor since his return; is industrious and attentive to business."

Willard Loomis—Post-master at Colosse, Oswego county, says of Loomis's confinement in state prison—"I think it has had the effect to make him a little more guarded in his conduct." Post-master at Union Square, says of Loomis, "that he was a bad fellow before conviction, and had narrowly escaped state prison twice before. Is a bad fellow now, and seems to care very little what he does."

Jacob Farrington—Post-master at Milford, Otsego county, says of Farrington—"he was considered a prudent man before he committed the act for which he was sent to prison, and I believe he sustains the same character now."

Samuel Cocket—Same letter as the foregoing, says of Cocket—"he was rather rude for a young man; but from appearances, he is much reformed."

Harman Cridenwise—Post-master at Pembroke, Genesee county, says of Cridenwise, as follows:—"as to his previous conduct, I never heard any thing against him, except the crime for which he was sent. His conduct since, is regular in all respects, so far as I know."

Benajah Mallory—Sheriff of Ontario, in a letter to the keeper, says of Mallory—"since he left the prison, he has spent some part of his time here, [Canandaigua.] His conduct is bad as I am told; he is now in jail for larceny, report says; I have not seen him since confined."

John Ruby, David Bartlett and Eli Bartlett—Letter from Chester, Warren county, says of the foregoing individuals—"as it respects the conduct of these persons since their release from prison, it has been generally good; and it is a common saying, that they are much improved in their dealings and manners." He says nothing of their conduct before conviction.

Daniel Stiles—Post-master at Virgil says of Stiles—"he was put in prison 7 or 8 years ago, for passing counterfeit money, and petitioned out in 14 or 15 months. His conduct and character have been much the same since as before; only, since, I think rather more suspicious. He is a man considerably given to drink."

Henry Preston—Post-master at Hamburg, says—"I am too little acquainted with Preston to judge from any thing I know myself. His neighbours say he was not considered a very bad man."

Samuel Saunders—Same letter as the foregoing, speaking of Saunders, says—"before conviction, he was a brawler, wrangler, and sower of sedition among neighbours. His reputation for truth and veracity was certainly bad. Since his return, I have seen less of him than formerly; enough, however, to induce me to believe what I frequently hear remarked of him, viz: that he is Sam Saunders yet!!!"

Joseph Mather—Post-master at Pompey, writes thus of Mather—"He had been a respectable man, a farmer, and his family were re-

spectable. He had, however, got embarrassed, become attached to drink, and neglected his business, when he committed the offence for which he was sent to state prison. His conduct, since he has been pardoned, has been very correct, so far as I have learned. He is industrious—appears to be moral, temperate and steady.”

Oliver Stebbins—Same letter as the foregoing, says—“Stebbins was a most notorious drunkard, and a very idle fellow, before he went to state prison. I do not know so much about him, but am informed that he is rather improved since, than otherwise.”

Ichabod Peavy—Post-master at Angelica, Allegany county, says, “Peavy, who lives in this place, is worthless and dissipated. I did not know him till he came to this place.” Peavy, while confined to the prison pretended to be dumb; and during his whole confinement, spoke but once, and then in a fit of passion at his keeper. On a trial of some of the convicts for firing the prison, Peavy, by writing, swore that he would not speak. It was subsequently to this, that he spoke as above.

Hulbert Rice—Post-master at Lebanon, speaking of Rice, says—“He was a lad about 19 years of age, of ordinary abilities. His character was not of the fairest standing before he was convicted of forging an order of \$7. He had also been in the habit of pilfering small articles. Since his discharge, I believe he has conducted himself with propriety and prudence, and attends to his business faithfully.”

John Outhout—Same letter as the foregoing, says—“John Outhout had, previous to his conviction, sustained a tolerably fair character; was a captain of a company of artillery, but some noted for small sly tricks. Since his pardon, he has returned to his family, and I believe he is industrious in his business. I believe his habits are pretty good, and no doubt but what he will continue to maintain a good character.”

Nathaniel Brown—Letter from post-master at Augusta, Oneida county, says—“Nathaniel Brown was, previous to his confinement in your prison, a very wild, unsteady young man; although he was not considered vicious. Still, home had but few attractions for him, notwithstanding he had a nice little wife and one or two interesting children. On his liberation from confinement, he returned immediately to his family, who received him as a husband and a father, and he has continued to live with them and provide for them ever since in a praise-worthy manner. He is very industrious and prudent, and were it not for the stigma which is naturally attached to those who

have been convicted and punished for the commission of crimes, he would be termed reputable."

Thomas Spafford—Same letter as the foregoing, says of Spafford, "He was, previously to his confinement in your prison, frequently detected in the commission of small larcenies. Since his liberation, I have not heard of his being detected in any crimes; but still, his habits are not such as to justify me in saying any thing more in his favour." N. B. No such name as the above appears to be entered on the prison register.

Roswell Packard—Post-master at French Creek, in a letter to the keeper, says—"I was acquainted with Packard about three years before he was sentenced, during which time his conduct and habits were known to be of the worst kind, and his character in every respect was very bad. Since his discharge he has been very industrious, generally steady, and has borne a very good character. It is the general repute that his morals were very much improved while confined in the prison."

Pardon Smith—Same letter says of Smith—"His habits, before conviction, were considered bad, his character exceptionable. Since his discharge, his habits are uniformly good, and he bears a good character."

John C. Pride, Jr.—Post-master at Union Square, in a letter to the keeper, says of Pride—"Before the crime for which he was convicted, he sustained a very fair character; was of sober and industrious habits, and a church member. Since his discharge, his conduct and character have been unimpeachable. He appears to be truly penitent, and declared to me on his return home, that it had been a good school to him, though a *very dear* one."

Elijah Brooks—Post-master at Stockton, writes thus—"About the 15th of September last, I was called to administer surgical aid to a man by the name of Elijah Brooks, who had cut his throat on being arrested for theft. He had resided where he then was, for several months, and laboured on a farm, and was thought a steady man. He has, however, lived in another part of this county, where his habits had not been good. He was tried by a court of special sessions, convicted, imprisoned and fined. He was about to be married when arrested; appears like a decent man, and is said to have been in state prison twice."

Philo Bristol—Lives in Aurelius, two or three miles from the prison, and is spoken of by those who are acquainted with him, as a sober, industrious, and steady man, and well esteemed.

Asa Grow—A gentleman who lives in Victor, Ontario county, states that Grow lives near him, and that he is well acquainted with him. Says that he is steady and industrious, strictly moral and exemplary in his conduct, and very punctual in his attendance upon religious worship on the sabbath, and conducts like an honest man and a Christian.

Samuel M'Connell—Post-master at Ellington, N. Y. in a letter to the keeper, says—"I am acquainted with Samuel M'Connell, a near neighbour, who was discharged from state prison; and am sorry to inform you that he is a poor dissipated man, but have been informed that formerly he was a man of respectability, but immediately before conviction, had the same character which he now has."



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